



THE  
UNITED PROVINCES CODE  

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VOLUME I.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE  
UNITED PROVINCES CODE:

IN THREE VOLUMES:

CONTAINING

THE REGULATIONS AND ACTS IN FORCE IN THE UNITED  
PROVINCES OF AGRA AND OUDH;

WITH

A CHRONOLOGICAL TABLE, AN APPENDIX AND AN INDEX.

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FIFTH EDITION.

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VOLUME I.

Bengal Regulations and Local Acts of the Governor General in Council.

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CALCUTTA  
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1923





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## PREFACE.

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THIS the fifth edition of the United Provinces Code which has been prepared on the same lines as the last edition is published in three volumes and contains (with five exceptions) the local enactments in force in the United Provinces of Agra and Oudh. The enactments are printed as modified up to the end of the year 1920, and the extent of the territorial application of each enactment has been noted beneath its title. The five exceptions referred to are Acts XV of 1878 (*Husainabad Endowment*), I of 1881 (*Taj Mahal's Pension*), X of 1883 (*Bikrama Singh's Estates*), XXI of 1886 (*Wasikas*), and XII of 1917 (*King of Oudh's Estate Validation*), which are omitted as being of personal or limited application.

2. The first volume contains the Bengal Regulations and the local Acts of the Governor General in Council in force in the United Provinces. The Acts of the Governor General in Council which apply to those Provinces in common with the rest of British India are printed in the volumes of the Unrepealed General Acts published by the Legislative Department. The second and third volumes contain the unrepealed Acts of the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council. Appended to the third volume are lists of the enactments which have been declared in force in, or extended to, the Scheduled Districts of the Province of Agra by notification under the Scheduled Districts Act, 1874 (XIV of 1874).

3. A chronological table showing all repeals and amendments affecting the United Provinces is prefixed to each volume and an alphabetical index to all the volumes is placed at the end of the third volume.

4. The Code has been prepared and passed through the Press with the assistance of Rai Amrita Lal Bannerjee Bahadur, B.A., Superintendent of the Publication Branch of the Legislative Department.

S. C. GUPTA,

*Deputy Secretary, Legislative Department,  
Government of India.*

DELHI;

*The 31st March, 1922.*

# CHRONOLOGICAL TABLE.

## PART I—BENGAL REGULATIONS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH.

Year	No.	Subject	Application	Repeals and amendments affecting the United Provinces	Page.
1793	XXXVIII	<sup>1</sup> The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	Province of Agra.	Rep in part, Act 8 of 1808, Act 16 of 1874; Act 12 of 1891, Act 1 of 1903.	1
1795	I	<sup>2</sup> The Benares Permanent Settlement Regulation, 1795	"	Rep in part, Act 12 of 1876, Act 12 of 1891 Supplemented, Ben Reg 27 of 1795	2
"	XV	<sup>2</sup> The Benares Family Domains Regulation, 1795	"	Rep in part, Act 10 of 1861, Act 12 of 1876; Act 12 of 1891; U. P. Act 6 of 1915 Amended, Ben Reg 7 of 1828	6
"	XXVII	<sup>2</sup> The Benares Permanent Settlement (Supplemental) Regulation, 1795	"	Rep in part, Ben Reg 12 of 1817, Act 4 of 1816, Act 16 of 1874, Act 12 of 1891.	
"	XLIV	<sup>2</sup> The Benares Inheritance Regulation, 1795	"	" "	15
1799	V	<sup>1</sup> The Bengal Wills and Intestacy Regulation, 1799	"	Rep in part, Act 40 of 1858; Act 16 of 1874,	17

<sup>1</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. IV.

<sup>2</sup> This title was given by the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

PART I.—BENGAL REGULATIONS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH—*contd.*

Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
1799	V	The Bengal Wills and Intestacy Regulation, 1799— <i>contd.</i>	Province of Agra.	Rep. in part, Act 12 of 1891. Amended, Ben. Reg. 5 of 1827; Act 10 of 1886; Act 1 of 1903; Act 4 of 1914.	17
1803	XXXIII	<sup>1</sup> The United Provinces Native Revenue-officers Regulation, 1803.	United Provinces.	Rep. in part, Act 12 of 1876. Applied to Oudh, with modifications, Act 18 of 1876.	20
1804	X	<sup>2</sup> The Bengal State-offences Regulation, 1804.	„	Rep. in part, Act 16 of 1874; Act 12 of 1891. Applied to Oudh, with modifications, Act 18 of 1876.	24
1806	XI	<sup>2</sup> The Bengal Troops Transport and Travellers' Assistance Regulation, 1806.	„	Rep. in part, Ben. Reg. 2 of 1811; Ben. Reg. 3 of 1820; Act 16 of 1874; Act 12 of 1876; Act 12 of 1891. Rep. in part and amended, Act 5 of 1897. Supplemented, Ben. Reg. 6 of 1825. Applied to Oudh, with modifications, Act 18 of 1876.	26
1812	XI	<sup>2</sup> The Bengal Foreign Immigrants Regulation, 1812.	Province of Agra.	Rep. in part, Act 16 of 1874; Act 12 of 1891. Amended, Act 5 of 1897; „ 13 of 1898; „ 1 of 1903.	32

<sup>1</sup> This title was given by the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

<sup>2</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. IV.

PART I.—BENGAL REGULATIONS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH—*contd.*

Year.	No	Subject.	Application	Repeals and amendments affecting the United Provinces.	Page.
1817	XX	<sup>1</sup> The Bengal Police Regulation, 1817.	Province of Agra.	Rep in part, Ben Reg. 7 of 1829, Act 18 of 1835; Act 10 of 1859. Act 17 of 1862. Act 16 of 1873. Act 16 of 1874. Act 8 of 1875. Act 12 of 1876. Rep in part and amended, Act 12 of 1891	30
1818	III	<sup>2</sup> The Bengal State Prisoners Regulation, 1818.	United Provinces	Rep in part, Act 16 of 1874, Act 1 of 1903 Amended, Act 12 of 1891. Supplemented, Act 34 of 1850; Act 3 of 1838 Applied to Oudh, with modifications, Act 18 of 1876.	39
1822	XI	<sup>1</sup> The Bengal Government Indemnity Regulation, 1822.	"	Rep in part, Act 12 of 1841, Act 19 of 1873. Act 12 of 1891 S 38 applied to Oudh, Act 18 of 1876.	43
1823	VI	<sup>1</sup> The Bengal Indigo contracts Regulation, 1823	Province of Agra.	Rep in part, Act 7 of 1870. Act 16 of 1874; Act 12 of 1876.  Rep in part and supplemented, Act 19 of 1836 Rep in part and amended, Act 12 of 1891. Supplemented, Ben. Reg. 5 of 1830.	44

<sup>1</sup> This title was given by the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

<sup>2</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. IV.



PART I.—BENGAL REGULATIONS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH—*contd.*

Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
1823	VII	<sup>1</sup> The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Province of Agra.	Rep. in part, Act 16 of 1874; Act 1 of 1903. Amended, Act 5 of 1897.	50
1825	VI	<sup>1</sup> The Bengal Troops Transport Regulation, 1825.	United Provinces.	Rep. in part, Act 12 of 1876; Act 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	52
„	XI	<sup>1</sup> The Bengal Alluvion and Diluvion Regulation, 1825.	„	Rep. in part, Act 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	54
1827	III	<sup>1</sup> The Bengal Corruption and Extortion Regulation, 1827.	Province of Agra.	Rep. in part, Act 16 of 1874; Act 12 of 1876. Amended, Act 1 of 1903.	57
„	V	<sup>1</sup> The Bengal Attached Estates Management Regulation, 1827.	„	Rep. in part, Act 16 of 1874. Rep. in part, and amended, Act 1 of 1903.	58
1828	VII	<sup>2</sup> The Benares Family Domains Regulation, 1828.	„	Rep. in part and amended, Act 14 of 1881. Rep. in part, U. P. Act 6 of 1915.	59
1829	XVII	<sup>1</sup> The Bengal Sati Regulation, 1829.	„	Rep. in part, Act 17 of 1862.	67
1830	V	<sup>2</sup> The Bengal Indigo-contracts Regulation, 1830.	„	Rep. in part, Act 16 of 1835; Act 3 of 1857; Act 8 of 1868; Act 12 of 1891.	69
1831	XI	Police-powers of Tahsildars.	„	Rep. in part, Act 16 of 1874; Act 12 of 1876; Act 12 of 1891. Rep. in part and amended, Act 16 of 1854.	70

<sup>1</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. IV.

<sup>2</sup> This title was given by the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

PART I.—BENGAL REGULATIONS IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH—*concl'd*

Year.	No	Subject	Application	Repeals and amendments affecting the United Provinces	Page
1833	IX	<sup>1</sup> The Bengal Land revenue (Settlement and Deputy Collectors) Regulation, 1833	Province of Agra	Rep. in part, Act 10 of 1873, Act 19 of 1873, Act 10 of 1914.  Rep. in part and amended, Act 1 of 1903  Amended, Act 19 of 1886	72

## PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH

Year.	No	Subject	Application.	Repeals and amendments affecting the United Provinces	Page.
1836	X	<sup>1</sup> The Bengal Indigo contracts Act, 1836	Province of Agra	Rep. in part, Act 8 of 1868, Act 14 of 1870, Act 16 of 1874	73
1834	XVI	Police . . . .	"	Rep. in part, Act 14 of 1870	76
1835	XII	<sup>1</sup> The Civil Court Amins Act, 1836	"	Rep. in part, Act 10 of 1861, Act 14 of 1870, Act 10 of 1873, Act 12 of 1873; Act 12 of 1891  Amended, Act 19 of 1880.	77
1837	XIII	<sup>1</sup> The Opium Act, 1837.	United Provinces	Rep. in part, Act 14 of 1870; Act 1 of 1878; Act 12 of 1891  Amended and Supplemented, Act 1 of 1911.	79

<sup>1</sup> This title was given by the Amending<sup>2</sup> This title was given by the Amending

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Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
1823	VII	<sup>1</sup> The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	Province of Agra.	Rep. in part, Act 16 of 1874; Act 1 of 1903. Amended, Act 5 of 1897.	50
1825	VI	<sup>1</sup> The Bengal Troops Transport Regulation, 1825.	United Provinces.	Rep. in part, Act 12 of 1876; Act 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	52
"	XI	<sup>1</sup> The Bengal Alluvion and Diluvion Regulation, 1825.	"	Rep. in part, Act 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	54
1827	III	<sup>1</sup> The Bengal Corruption and Extortion Regulation, 1827.	Province of Agra.	Rep. in part, Act 16 of 1874; Act 12 of 1876. Amended, Act 1 of 1903.	57
"	V	<sup>1</sup> The Bengal Attached Estates Management Regulation, 1827.	"	Rep. in part, Act 16 of 1874. Rep. in part, and amended, Act 1 of 1903.	58
1828	VII	<sup>2</sup> The Benares Family Domains Regulation, 1828.	"	Rep. in part and amended, Act 14 of 1881. Rep. in part, U. P. Act 6 of 1915.	59
1829	XVII	<sup>1</sup> The Bengal Sati Regulation, 1829.	"	Rep. in part, Act 17 of 1862.	67
1830	V	<sup>2</sup> The Bengal Indigo-contracts Regulation, 1830.	"	Rep. in part, Act 16 of 1835; Act 3 of 1857; Act 8 of 1868; Act 12 of 1891.	69
1831	XI	Police-powers of Tahsildars.	"	Rep. in part, Act 16 of 1874; Act 12 of 1876; Act 12 of 1891. Rep. in part and amended, Act 16 of 1854.	70

<sup>1</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. IV.<sup>2</sup> This title was given by the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

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Year.	No.	Subject	Application	Repeals and amendments affecting the United Provinces	Page
1833	IX	The Bengal Land revenue (Settlement and Deputy Collectors) Regulation, 1833	Province of Agra	Rep. in part, Act 10 of 1873, Act 10 of 1873, Act 10 of 1914.  Rep. in part and amended, Act 1 of 1903  Amended, Act 19 of 1886	72

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Year.	No.	Subject	Application.	Repeals and amendments affecting the United Provinces.	Page.
1836	X	The Bengal Indigo contracts Act, 1836	Province of Agra.	Rep. in part, Act 8 of 1864, Act 14 of 1870, Act 16 of 1874	73
1854	XVI	Police . . . .	"	Rep. in part, Act 14 of 1870	76
1856	XII	The Civil Court Amins Act, 1856	"	Rep. in part, Act 10 of 1861, Act 14 of 1870, Act 10 of 1873, Act 12 of 1873, Act 12 of 1891 Amended, Act 19 of 1886.	77
1857	XIII	The Opium Act, 1857.	United Provinces	Rep. in part, Act 14 of 1870; Act 1 of 1878; Act 12 of 1891 Amended and supplemented, Act 1 of 1911	79

<sup>1</sup> This title was given by the Amending Act, 1903 (1 of 1903) s. 2. Local Code, Vol. I.

<sup>2</sup> This title was given by the Amending Act, 1897 (3 of 1897) s. 4. General Acts, Vol. IV.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL  
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Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
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<sup>1</sup> This title was given by the Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I.

<sup>2</sup> This title was given by the Amending Act, 1897 (5 of 1897), s. 4, General Act, Vol. IV.

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Year	No	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page
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1876	XVIII	The Oudh Laws Act, 1876	Oudh	Rep. in part, Act 6 of 1878. Act 14 of 1878. Act 3 of 1879. Act 13 of 1879. Act 4 of 1882. Act 10 of 1882. Act 22 of 1888. Act 13 of 1890. Act 8 of 1890. Act 20 of 1890. U P Act 4 of 1901. Act 1 of 1903. Act 18 of 1910 Rep in part and amended, Act 12 of 1891 Amended, U P Act 3 of 1912; Act 34 of 1920	163
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1879	XIII	The Oudh Civil Courts Act, 1879.	Oudh	Rep. in part, U. P. Act 2 of 1896. Rep. in part and amended, Act 14 of 1891. Amended, Act 20 of 1890; U. P. Act 2 of 1912; Act 4 of 1914; Act 38 of 1920.	193
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<sup>1</sup> This Act was given by the Amending Act 1897 (3 of 1897), s. 4 General Acts Vol IV.

<sup>2</sup> Private Act, s. 18, amended.

<sup>3</sup> This short title was changed by s. 2 of the General Agra and Assam Civil Courts (Amend-  
ment) Act 1911 (15 of 1911), s. 2.



PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL  
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Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
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COUNCIL IN FORCE IN THE UNITED PROVINCES OF  
AGRA AND OUDH—*concl'd.*

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THE  
UNITED PROVINCES CODE.  
VOLUME I.

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PART I:

BENGAL REGULATIONS IN FORCE IN THE UNITED  
PROVINCES OF AGRA AND OUDH.

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BENGAL REGULATION XXXVIII of 1793.<sup>1</sup>

THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION  
REGULATION, 1793

[APPLIES TO THE PROVINCE OF AGRA.]

[1st May, 1793.]

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1797, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent taluqdars, or other actual proprietors of land, or dependent taluqdars, or farmers of land holding farms immediately of Government, or the under-farmers or rayats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties<sup>2</sup> \* \* \* \* \*

1. At an early period after the establishment of the British Government in this country, the servants of the Company employed in the

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<sup>1</sup> Secs. 1 and 2 of Ben. Reg. 33 of 1793 were declared, by the Laws Local Patent Act, 1874 (15 of 1874), General Acts, Vol. II, s. 7, to be in force in the whole of the Province of Agra, except as regards the Scheduled Districts. They have been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaurah Bazar, and then were extended, by notification under the same Act, to the Tarai Parganas—see Vol. III, Appendix.

<sup>2</sup> Section title, the Indian Civil Service (Bengal), Loans Prohibition Regulation, 1793—see the Amending Act, 1877 (15 of 1877), General Acts, Vol. IV.

<sup>3</sup> The words "and for mortgaging, with alterations, the existing rules prohibiting Europeans of any description lending possession of lands that may be mortgaged to them, or purchasing or receiving lands for erecting houses or buildings, for carrying on manufacturing, or other purposes, without the sanction of the Governor General in Council" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

1\* \* \* \* \*

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted  
servants not  
to lend  
money to  
proprietors,  
etc., of land.

2. The Judges and Magistrates of the Zila \* \*<sup>2</sup> Courts \* \*<sup>2</sup> and their assistants, or other officers being covenanted servants of the Company, and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdar, or under-farmer or raiyat, or their sureties; and all such loans as \* \* \* \*<sup>3</sup> may be hereafter made, are declared not recoverable in any Court of Judicature.

3-6. [*Holding of land by Europeans.*] *Rep. Act VIII of 1868.*

### BENGAL REGULATION I OF 1795.<sup>4</sup>

THE BENARES PERMANENT SETTLEMENT REGULATION, 1795.

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars<sup>5</sup> \* \* \* \*

Preamble.

1. The Governor General in Council having determined, with the concurrence of the Raja of Benares, to introduce into that Province, as

<sup>1</sup> The third paragraph was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>2</sup> The words "and City" before the word "Courts" and the words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts" after the word "Courts" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> The words "have been made in opposition to the repeated prohibitions of Government or which" were repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>4</sup> Short title, the Benares Permanent Settlement Regulation, 1795—see the Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I.

For further provisions as to the Benares Permanent Settlement, see Bengal Regulation 27 of 1795, *infra*.

<sup>5</sup> The words and figures "and for extending to the Province of Benares the Rules prescribed in Regulation XLI, 1793" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

far as local circumstances will admit, the same system of interior administration as has been established in the Provinces of Bengal, Behar and Orissa, and the limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the preamble to Regulation II, 1793,<sup>1</sup> the following rules have been enacted

2 On the expiration of the year 1196 *Insā*, the Governor General in Council instructed the Resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The Resident accordingly completed the settlement by granting leases for the term of one year in certain *amils*, and for five years to others, by which they bound themselves to pay a specific *jama* or assessment.

Original process of assessment of land revenue in Benares.

But the Governor General in Council being desirous of extending to the Province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the Provinces of Bengal, Behar and Orissa, those principles were accordingly introduced in the districts of which the *amils* in the preceding year had obtained leases for five years, by their consenting to the Resident's issuing *pattas* or leases, under their and his joint seals and signatures, for the remaining four years of the term of their own engagements to all the *taluqdars* and to the village-zamindars and farmers by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the *amils* and accounted for by them to Government, and in the districts the leases of which had been granted for one year only, and had consequently expired, by the issuing of *pattas* to the *taluqdars*, and the village zamindars and farmers under the signature of the Resident and the *Haja*, fixing the revenue to be in like manner paid by them through the *amils* for the term of ten years.

The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four and ten years made to the Governor General in Council by the Resident, on the 26th of April, the 30th of November and the 26th of December, 1789 and the 25th of November, 1790 and in the papers and accounts therein referred to, and, on a consideration of them, the Governor General in Council, on the 11th of February, 1791, approved of the said quinquennial and decennial settlements with the *taluqdars*, village zamindars and farmers and ordered "that the four years' *pattas* be confirmed for the ensuing six, so as to reduce the whole to a ten years' settlement and that assurances be given to the *patta* holders that as long as they continue to pay their revenue stipulated in the last year of the increase, as specified in their several *pattas* they shall not be liable to any further demand during their lives."

This order has been repeatedly notified to the parties whom it concerned who, with the exception of the *patta*-holders in a few *parganas*,

<sup>1</sup> The Bengal Land Revenue Regulation 1793 Bengal Code, Vol. I

administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

1 \* \* \* \* \*

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted  
servants not  
to lend  
money to  
proprietors,  
etc., of land.

2. The Judges and Magistrates of the Zila \* \*<sup>2</sup> Courts \* \*<sup>2</sup> and their assistants, or other officers being covenanted servants of the Company, and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdar, or under-farmer or raiyat, or their sureties; and all such loans as \* \* \* \*<sup>3</sup> may be hereafter made, are declared not recoverable in any Court of Judicature.

3-6. [*Holding of land by Europeans.*] *Rep. Act VIII of 1868.*

## BENGAL REGULATION I of 1795.<sup>4</sup>

THE BENARES PERMANENT SETTLEMENT REGULATION, 1795.

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars<sup>5</sup> \* \* \* \*.

Preamble.

1. The Governor General in Council having determined, with the concurrence of the Raja of Benares, to introduce into that Province, as

<sup>1</sup> The third paragraph was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>2</sup> The words "and City" before the word "Courts" and the words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts" after the word "Courts" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> The words "have been made in opposition to the repeated prohibitions of Government or which" were repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>4</sup> Short title, the Benares Permanent Settlement Regulation, 1795—see the Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I.

For further provisions as to the Benares Permanent Settlement, see Bengal Regulation 27 of 1795, *infra*.

<sup>5</sup> The words and figures "and for extending to the Province of Benares the Rules prescribed in Regulation XLI, 1793" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

far as local circumstances will admit, the same system of interior administration as has been established in the Provinces of Bengal, Behar and Orissa, and the limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the preamble to Regulation II, 1793,<sup>1</sup> the following rules have been enacted

2. On the expiration of the year 1190 Bashi, the Governor General in Council instructed the Resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The Resident accordingly completed the settlement by granting leases for the term of one year to certain amils, and for five years to others, by which they bound themselves to pay a specific jama or assessment

But the Governor General in Council being desirous of extending to the Province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the Provinces of Bengal, Behar and Orissa, those principles were accordingly introduced in the districts of which the amils in the preceding year had obtained leases for five years, by their consenting to the Resident's issuing pattas or leases, under their term of their own engagements, to all the taluqdars and to the village zamindars and farmers by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the amils and accounted for by them to Government, and in the districts the leases of which had been granted for one year only, and had consequently expired by the issuing of pattas to the taluqdars, and the village zamindars and farmers, under the signature of the Resident and the High fixing the revenue to be in like manner paid by them through the amils for the term of ten years

The particulars of these arrangements were detailed in the reports on the said settlements for one year and for four and ten years, made to the Governor General in Council by the Resident, on the 26th of April, the 30th of November and the 26th of December, 1789, and the 25th of November, 1790 and in the papers and accounts therein referred to, and, on a consideration of them, the Governor General in Council, on the 11th of February, 1791, approved of the said quarterly and decennial settlements with the taluqdars, village zamindars and farmers, and ordered "that the four years' pattas be confirmed for the ensuing six, so as to reduce the whole to a ten years' settlement, and that assurances be given to the patta holders, that as long as they continue to pay their revenue stipulated in the last year of the increase, as specified in their several attas they shall not be liable to any further demand during their lives"

This order has been repeatedly notified to the parties whom it concerned who, with the exception of the patta-holders in a few parganas,

<sup>1</sup> The Bengal Land Revenue Regulation 1793 Bengal Code, Vol I



and of certain individual zamindars and farmers in others, have, by the performance of the conditions required of them, become entitled to hold their lands at a fixed assessment during their lives, as specified in the said order.

Revenue assessed on lands included in pattas, conditions of which have been performed, fixed in perpetuity.

The Governor General in Council has now further resolved that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial pattas, the conditions of which have been performed, whether held by zamindars or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the Regulations to succeed to, such pattas, shall not be liable to any additional payment beyond the highest annual jama specified in such pattas.

That this resolution may be rendered more immediately and generally known, the Resident is to notify it to the parties interested by a proclamation to the following effect.

Proclamation. Revenue assessed on lands, agreeably to pattas granted under rules for quartennial and decennial settlements, declared fixed in perpetuity.

3. *First.*—"On the 11th February, 1791, the Governor General in Council signified his approbation and confirmation of the quartennial and decennial settlements, formed in the Fasli year 1197 (1789-90), throughout the four sarkars comprised in the Province of Benares, and directed, in respect to the pattas for four years, that the amount of the jama payable thereby in the fourth year should be continued for the next six years, so as to place the quartennial pattas on the same footing as the pattas granted for ten years.

"The Governor General in Council now declares that the jama payable according to the quartennial and decennial pattas shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual jama payable according to the said pattas shall ever be required of those pattadars, or holders of pattas, who have hitherto paid up their revenue and observed all the other conditions specified in their pattas, nor of those who may hereafter become entitled to hold or succeed to such pattas, so long as they shall continue to discharge the amount, and to perform the conditions therein stipulated.

Reservations under which above declarations are made.

*Second.*—"The above declarations are made with the following reservations.

*Third.*—"The holders of the pattas are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the pattidars, or sharers in estates, the raiyats, or the administration of justice which have been or may be passed by the Governor General in Council \* \* \* \* 1.

<sup>1</sup> The words and figures "and printed and published in the manner prescribed in Regulation XLI, 1793" in the third clause were repealed by the Repealing Act, 1876 (12 of 1876).

*Fourth* —“ The succession to zamindaris is to take place according to the established laws, rules and customs of the country, as provided for in the Regulations passed, or which may be enacted, for the Province of Benares . . . .”

Rule regard-  
ing succession  
to zamin-  
dars

*Fifth* —“ In the event of the death of a farmer holding a patta for lands the zamindar of which was disposed previous to the 1st July, 1775 the date of the cession of the Province of Benares to the Company, or of the patta of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Raja of Benares, that such zamindar, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed jama assessed on the lands agreeably to such patta, and to conform to all Regulations for the collection of the revenue, the administration of justice or other matters . . . .”

Cases in  
which zamin-  
dar dispos-  
essed before  
1st July,  
1775, shall be  
restored to  
his estate on  
avoidance of  
patta granted  
for it to  
farmer

“ In such case, the estate shall be made over to him or them, in preference to its being leased to a new farmer or to the heir of the last patta-holder

*Sixth* —“ According to the well known rule prevailing in the Province those zamindars who have had possession of their estates since the 1st of July, 1775, but who were nevertheless excluded at the forming of the permanent settlement may recover possession of their estates from the farmers who may hold pattas for, and be in the actual management of, them, by proving their intermediate possession in the Court of Diwan Adalat

Cases in  
which zamin-  
dars in  
possession of  
estates since  
1st July,  
1775 but  
which have  
been leased to  
farmers may  
recover  
possession  
from such  
farmers

“ The Courts of Diwan Adalat are accordingly to decree the restoration of any such zamindar so claiming, on proof being made by him of such intermediate possession, but every such decree is to provide for such zamindar's previously indemnifying the farmer for the loss which he may prove to the satisfaction of the Court to have sustained in consequence of his having held the lands under the patta of Government; and the Court is accordingly to inquire into and decide upon such loss, and to cause the amount to be made good to the farmer, before the zamindar is reinstated ”

4 [ *Extension of Bengal Regulation XII, 1793, to Benares* ] *Rep Act VII of 1876*

‘The words and figures’ and ‘printed and published in the manner prescribed in Regulation XII 1793’ in the fourth clause were repealed by the Repealing Act, 1876 (12 of 1876)

‘The words and figures’ which may be printed and published in the manner prescribed in Regulation XII 1793’ at the end of the fifth clause were repealed by *ibid*

BENGAL REGULATION XV OF 1795.<sup>1</sup>

THE BENARES FAMILY DOMAINS REGULATION, 1795.

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation<sup>2</sup> \* \* \* \* \* for referring certain cases to the decision of the Raja of Benares.

reamble.

1. Previous to the establishment of Courts of Justice in the Province of Benares, individuals in general were under the necessity of having recourse to arbitration for the adjustment of the differences occasionally arising between them in respect to matters of property; and the same mode of adjustment has since been prevalent in the Province, the parties in suits before the Courts often agreeing to submit to the award of a certain number of their neighbours or other persons, and the award, when confirmed by the Court, becoming a decree of the Court.

The Governor General in Council being desirous to promote the reference of disputes of certain descriptions to arbitration, and having deemed it proper to submit certain cases to the decision of the Raja, the following rules have been enacted.

2. [*Extension of Ben. Reg. XVI of 1793 to Benares.*] Rep. Act X of 1861.

cases to be referred to Raja.

3. *First.*—In the event of any complaints being preferred \* \* \* to any Zila Court, \* \* \* relative to undue exactions of revenue, or any breach of agreement in respect to pattas, or the resumption of krishnarpan, or other description of lands exempted from the payment of revenue, in the jagir mahals of Badhoi or of Khera Mangror, or in the Raja's hereditary zamindari of Gangapur<sup>3</sup> the complaints are not to be taken cognizance of in the Courts of Justice, but the parties are to be desired to make application to the Raja or to his Diwan; and in case of their not obtaining justice they are to have recourse to the Collector, who will proceed to bring such causes to a just and equitable termination, in the manner stated in the under-specified article of an agreement concluded by the Resident with Raja Mahipnarain under date the 27th of October, 1794.

<sup>1</sup> Ben. Reg. 15 of 1795 is modified by Ben. Reg. 7 of 1828, *infra*.

Short title, the Benares Family Domains Regulation, 1795—*see* the Amending Act, 1935 (I of 1935), s. 2, Bengal Code, Vol. I.

<sup>2</sup> The words and figures “for extending to the Province of Benares Regulation XVI, 1795, entitled ‘a Regulation for referring suits to arbitration, and submitting certain cases to the decision of the Nazim,’ with the exception of Section X; and” were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>3</sup> The words “to the City Court or” after the word “preferred” and the words “or to the Provincial Court of Appeal” after the word “Court” were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>4</sup> The Regulation has been repealed so far as it related to Pargana Kaswar Raja or Gangapur, by U. P. Act VI of 1915, s. 2, and Schedule, *infra*, Vol. II.

An option, however, is reserved to the persons deeming themselves injured to prefer their applications for redress in the first instance to the Collector, who in all cases, by reference to, and communication with the Raja and his officers, is to cause substantial justice to be rendered to the parties.

*Second* —Article third of an agreement concluded by the Resident <sup>At the</sup> at Benares with Raja Mahipataram, under date the 27th of October, 1791 —“ In case of complaints relative to revenue-causes or charity-ground, &c , being preferred to the huzar (i.e., the English Government) by any parties residing within the jagir and altamga, &c , the personal or private lands of Raja Mahipataram Singh, the inquiry therein shall be made in like manner as such cases were amicably conducted between Mr Duncan and the Raja, that is, that since the gentlemen holding the station of Collector will have more concern and connection with such matters than the other gentlemen, the rule shall be that with the privacy and ascertainment of the said Collector (who is to have regard to the honour and dignity of the said Raja), such causes are to be settled through the channel of the said Raja or of the officers of the said Raja's kichahri, it being at the same time understood and provided that as it is a duty incumbent on the Hon'ble Company's Government to distribute and ensure the attainment of justice to all the inhabitants of Benares should it so happen that after referring such complaints to the Raja or to his officers in the kichahri, the contentment of the parties complaining and aggrieved shall not be obtained, the Raja shall relative to the adjustment of such causes listen to and approve of the suggestions and advice of the Collector, in like manner as hath been practised in the time of Mr Duncan, and it is also incumbent on the said Collector, in all proper and just cases, to show the utmost attention possible to the Raja's accommodation, and to hold in view the maintenance of his honour and dignity, such being entirely consistent with the wishes of Government and if (which God forbid) any such subject should arise as cannot be settled between the said Collector and the Raja aforesaid the decision in such case shall depend on the Governor General or Council.”

BENGAL REGULATION XXVII OF 1795.<sup>1</sup>  
THE BENARES PERMANENT SETTLEMENT (SUPPLEMENTAL)  
REGULATION, 1795.

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the permanent settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates, or portions of estates, and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred \* \* \* \*

\* \* \*

Preamble.

1. Regulations I<sup>2</sup> and II,<sup>4</sup> 1795, contain the rules according to which the settlement of the land-revenue in the Province of Benares made for one year, and the quartennial and decennial settlements, were concluded.

By the first-mentioned Regulation, the decennial settlement has been declared permanent, and for the information and guidance of the taluqdars, zamindars and other actual proprietors of land, and all persons whomsoever, the following further rules respecting the permanent settlement are enacted.

Jama here-  
after agreed  
to by proprie-  
tors whose  
lands are held  
amani or let  
in farm, de-  
clared fixed  
for ever.

2. As the lands of some few zamindars and other actual proprietors of land may have been continued amani or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations for the quartennial and decennial settlements, the Governor-General in Council notifies to the taluqdars, zamindars and other actual proprietors of land whose lands are held amani, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which has been or may be required of them in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estate at such assessment for ever;

and he declares to the taluqdars, zamindars and other actual proprietors of land whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for

<sup>1</sup> Short title, the Benares Permanent Settlement (Supplemental) Regulation, 1795—see the Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I.

<sup>2</sup> The words "and for continuing the Patwaries in the discharge of their ancient functions" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>3</sup> *Supra*.

<sup>4</sup> Repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), so far as it was in force in the Province of Agra.

which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, or in the event of any such farmer or farmers forfeiting his or their leases by falling in arrear, or otherwise, such proprietors of land shall be reinstated on their agreeing to the payment of the assessment which may be required of them, or (according to the nature of the case) to the conditions with respect to the arrear that may be due, as specified in clause first, section 18, Regulation VI, 1793,<sup>1</sup> and no alteration shall afterwards be made in the said fixed annual assessment, but such proprietors of land, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

3. In the event of the proprietary right in lands that are or may become the property of Government being transferred to individuals, such individuals and their heirs and lawful successors shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

4. First—The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government for an augmentation of the public assessment, in consequence of the improvement of their respective estates.

Second—To discharge the revenue at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their pattidars, under renters, and raiyats, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable, and a strict observance of these duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

The Governor General in Council therefore expects that the aforesaid proprietors of land will not only act in this manner themselves towards their pattidars, under renters, and raiyats, but also engage the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust.

<sup>1</sup> Repealed by the N. W. P. Land Revenue Act 1793 (19 of 1793) so far as it was in force in the B. N. P. of Agra.

Government  
to enact  
Regulations  
for welfare  
of cultivators.

5. *First.*—It being the duty of the Ruling Power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor General in Council, whenever he may deem it proper, will enact such Regulations as he may think necessary for the protection and welfare of the pattidars, under-renters, raiyats and other cultivators of the soil; and no taluqdar, zamindar or other proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they may have respectively agreed to pay.

Internal  
duties to be  
long to Gov-  
ernment.

*Second.*—The Governor General in Council having, on the 26th December, 1787, directed the saiyar collections to be abolished, and a subsequent settlement having been made with the proprietors of land, exclusive of the articles of collection given up by that abolition, he now declares that if he shall hereafter think it proper to re-establish the saiyar collections or any other internal duties and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Jama assessed  
on alienated  
lands held  
under invalid  
titles.

*Third.*—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Police-lands  
eventually re-  
sumable by  
Government.

*Fourth.*—The jama of those zamindars, taluqdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with and exclusive of the produce of any lands set apart for the maintenance of pharis, pasis, goraits or other description of watchmen, employed in services of police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government to perform the duties relating to the police now required from them. The Governor General in Council, however, declares that the produce of lands which may in that case be resumed will be appropriated to no other purpose but that of defraying the expense of the police or providing a maintenance for the pharis, pasis, goraits or other description of watchmen employed therein.

Estates of  
dispossessed  
proprietors  
not liable to  
sale for  
arrears of

*Fifth.*—Nothing in this or any other Regulation shall be construed to render the lands of which there are dispossessed proprietors, liable to sale for any arrears which have accrued, or may accrue, on the jama that has been or may be assessed upon their lands, under the Regulations:

for the quarteontal and decennial settlements, provided that such arrears have occurred, or may occur, during the time that they have been, or may be, dispossessed of the management of their lands.

It is to be understood, however, that whenever all or any of the descriptions of dispossessed landholders shall be permitted to assume or return the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the jum that has been or may be assessed upon them in perpetuity from the time that the management may devolve upon them.

6 That no doubt may be entertained, whether proprietors of land or entitled, under the existing Regulations to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the taluqdars, zamindars and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise their proprietary right in the whole or any portion of their respective estates without applying to Government for its sanction to the transfer, and that all such transfers will be held valid, provided that they be conformable to the Muhammadan or Hindu laws (according as the religious persuasions of the party or parties making such transfer may render the validity of it determined by the former or the latter code) and that they be not repugnant to any Regulations now in force which have been passed by the British Administrations or to any Regulations that they may hereafter enact.

7.<sup>1</sup> From the limitation of the public demand upon the lands the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment (in which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale or hire will always be ascertainable by a comparison of the amount of the fixed jum assessed upon it (which agreeably to the foregoing declarations is to remain unalterable for ever to whomsoever the property may be transferred) with the whole of its produce allowing for the charges of management.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it in the event of the whole of it being transferred by public or private sale or otherwise.

<sup>1</sup> From a *Tasreefat* the subject-matter of the foregoing regulations has been taken and to public use in its state of draft was referred by A. A. 4 of 1818.



two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint-property, and a division of it being made among the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue, or such other officer as Government may in future prescribe, in order that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jama charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the province, or such other officers as may be hereafter prescribed for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

*First.*—In the event of the whole of the lands of a zamindar, taluqdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being exposed to public sale by order of the Governor General in Council for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful suc-

cessors, shall hold them at the jama at which they may be so purchased for ever.

*Second*—When a portion of the lands of a taluqdar, zamindar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before mentioned, shall be exposed to public sale by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of may bear to the whole of their actual produce.

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those sold may bear to the whole of their actual produce.

The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her or their possession, will continue unalterable for ever.

*Third*—When a taluqdar, zamindar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt; and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors shall hold them at the jama at which they may be transferred for

ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

*Fourth.*—Whenever a division shall be made of lands the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them for ever.

8. Nothing in this or any other Regulation passed previous to or on this date shall be construed to authorize the public sale of the lands in any taluqdari or zamindari whilst the party or parties claiming the same, as the ancient proprietors, continue to stand excluded under the limitation specified in section 12, Regulation II,<sup>1</sup> 1795; or until, by the operation of the repeal of that limitation under section 3, Regulation I, 1795,<sup>2</sup> or in pursuance of the consequent provision in section 18, Regulation VI,<sup>1</sup> 1795, or some other consonant rule made, or that shall hereafter be made, in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective taluqdaris or zamindaris.

9. [*Rules as to patwaris.*] *Rep. by Ben. Reg. XII of 1817.*

10. For the sake of precision it is hereby declared that wherever the term proprietor or actual proprietor of any taluq, zamindari, village or other land paying revenue to Government is or may be used in this or any other Regulation extending to the Province of Benares, \* \* \* such term is to be considered as applying to the person or persons holding under each separate lease or patta from Government (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other pattidars, distinct or common), whose name or names standing inserted in such pattas, and who,

<sup>1</sup> Ben. Regs. 2 and 6 of 1795 were repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), so far as they were in force in that Province.

<sup>2</sup> *Supra.*

<sup>3</sup> The words and figures "and printed and published in the manner prescribed in Regulation XLI, 1793," after the word "Benares" and the words and figures "as referred to in Regulation II, 1795," after the word "district" were repealed by the Repealing Act, 1874 (16 of 1874).

Lands of ancient proprietors excluded under Regulation II, 1795, s. 12, not liable to be sold at public sale.

Definition of proprietor or actual proprietor of land.

having executed the counterpart talukiyats, has or have thereby become immediately responsible to Government, as well for the payment of the revenue as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement, without, however, affecting or prejudicing the rights, distinct or common, of any pattidars or sharers where any such shall exist, and which, in case of dispute with the pattadars or holders of the pattas, are to be determined by the Courts of Adalat, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the district, \* \* \* \* as far as regards the parties in question.

BENGAL REGULATION XLIV of 1795<sup>2</sup>  
THE BENARES INHERITANCE REGULATION, 1795  
[APPLICABLE TO THE PROVINCE OF ALORA]

[28th August, 1795]

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the Inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.

1. On grounds similar to those stated in the preamble to Regulation XXI, 1793,<sup>3</sup> for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government, in the Provinces of Bengal, Behar and Orissa, the following rules have been enacted for the Province of Benares.

2. After the first day of the Fash year 1204, if any taluqdar, zamindar or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall have declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall respectively be entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

3. If any taluqdar, zamindar or other actual proprietor of land shall die subsequent to the period specified in section 2 without a will, or with-

<sup>1</sup> The words and figures "and printed and published in the manner prescribed in Regulation XI, 1793" after the word "Benares" and the words "and figures" has referred to in Regulation II, 1795 after the word "and it" were repealed by the Papering Act 1794 116 of 1794.

<sup>2</sup> Except in the Benares Inheritance Regulation 1795—the Amending Act, 1803 (11 of 1803) s. 2, Bengal Code Vol. I.

<sup>3</sup> The Bengal Inheritance Regulation, 1795 in Bengal Code, Vol. I.

out having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion), shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV, 1793,<sup>1</sup> and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held  
separate how  
assessed.

4. It is to be understood that, if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 7, Regulation XXVII, 1795.<sup>2</sup>

Commence-  
ment and  
operation of  
Regulation.

5. Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve entire to any individual prior to the beginning of the Fasli year 1204, in exclusion of the other heirs of the last proprietor, under the custom in virtue of which such individual may so hold or succeed to the whole of such estate, and for the future abolition of which this Regulation is enacted, but such person or persons are to be considered bound, in the cases specified in clause 10, section 35, Regulation XXII, 1795,<sup>3</sup> by what they had acquiesced in.

Saving of  
bequests and  
transfers.

6. Nor to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the Fasli year 1204, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper: Provided that the bequest or transfer be not repugnant to any regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that

<sup>1</sup> Ben. Reg. 25 of 1793 was repealed by Ben. Reg. 19 of 1814.

<sup>2</sup> *Supra*.

<sup>3</sup> Ben. Reg. 22 of 1795 was repealed by the Repealing Act, 1868 (8 of 1868).



will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards \* \* \*<sup>1</sup> the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the Diwani Adalat or any other officer of Government, for his sanction: and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature \* \* \*<sup>2</sup>

Estates of  
persons dying  
intestate.

<sup>3</sup>3. In case of a Hindu, Mussulman, or other person subject to the jurisdiction of the Zila \* \* \*<sup>4</sup> Courts, dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred \* \* \*<sup>5</sup>

If there be  
more heirs  
than one to  
estate of  
intestate

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir.

But if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, de-

<sup>1</sup> The words "under any Regulation relative to the jurisdiction of the Court of Wards" were repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>2</sup> The last part of the section, which directed the Court how to proceed when a regular complaint is made before them, was repealed by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> So much of s. 3 as restricted the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1858.

<sup>4</sup> The words "or City" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>5</sup> The words "when they are to proceed thereupon according to the general Regulations" were repealed by the Amending Act, 1903 (I of 1903), s. 4.

charging at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

15. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

In what cases  
the Judge may  
appoint an  
administrator  
for care and  
management  
of estate of  
intestate

16. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Saib Diwani Adalat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

Security to  
be taken  
from, and  
allowance  
paid to, an  
administrator

17. The Judges of the Zila \* Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Provision to  
be made for  
care of per-  
sonal prop-  
erty, and  
advertisement  
to be issued  
to the heir or  
person entitled  
to receive charge  
of the effects

Such advertisement to be published on the spot where the property was found, at the Diwani Adalat Pachkhuri of the Zila \* and, if

\* The word "Zila" is not used by the Bengal Amalgamated Districts Management Regulation of 1873 (Act 1 of 1873).

\* The words "or City" were repealed by the Bengal Act, 1874 (Act 1 of 1874).



ascertainable at the dwelling-place of the deceased \* \* \* \*<sup>1</sup>; after which, should any person attend and satisfy the Judge or his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the <sup>2</sup>[Board of Revenue, or in Assam, to the Local Government, for its] orders.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Courts of Wards in the appointment of managers or guardians for <sup>3</sup> disqualified landholders, \* \* \*<sup>3</sup> or in any case wherein a special power may be vested in the Court of Wards \* \*

Saving of jurisdiction of Court of Wards.

#### BENGAL REGULATION XXXIII OF 1803.<sup>4</sup>

THE UNITED PROVINCES NATIVE REVENUE-OFFICERS' REGULATION, 1803.

[APPLIES TO THE UNITED PROVINCES.]

[24th March, 1803.]

A Regulation for preventing the embezzlement of Public Money and the withholding of Public Papers by the Native-Officers of Government in the Provinces ceded by the Nawab Wazir to the Honourable the English East India Company.

Preamble.

1. It being necessary that the Collectors should possess the means of recovering the public dues and papers from [tahsildars],<sup>5</sup> sazawals,amins and other Native officers withholding the public money, or omitting to attend the Collectors to adjust their accounts, or retaining papers which came into their possession in their official capacity, the Governor General in Council has passed the following rules.

<sup>1</sup> The words " or, if the deceased were an European, in the Calcutta Gazette " were repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>2</sup> These words were substituted by Part III of Schedule to the Decentralization Act, 1914 (4 of 1914), see General Acts, Vol. VIII.

<sup>3</sup> The word " the " before " disqualified," the words and figures " described in Reg. X, 1793," after " landholders " and the words " by the above or any other Regulation " at the end of section 8, were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>4</sup> Short title, the United Provinces Native Revenue-officers Regulation, 1803—see the Amending Act, 1903 (I of 1903), s. 2.

For declaration as to the Regulation being in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (c), *infra*.

<sup>5</sup> The word " tahsildars " was repealed by the Repealing Act, 1876 (12 of 1876), but re-inserted for Oudh by Act 18 of 1876, s. 3 (c), *infra*.

2. *First.*—The Collectors are to take security for the personal appearance of the [tahsildars],<sup>1</sup> *sazawals*, *amins*, *diwans*, *sarishdars*, *munchis*, *muharris*, and all Native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter, employed under them, in their capacity of Collectors of the Revenue.

The surety is to bind himself to produce the officer for whom he may become security before the Collector, whenever his attendance may be required until he shall be discharged from the public service, and shall have received a writing from the Collector signifying that he has no demand upon him on the part of Government, either for money, papers or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the Collector may have upon him for public money, papers or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself had he been forthcoming.

When any such officer is removed or resigns, the Collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money that may have been committed to his charge.

The Collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

3. *Second.*—[The responsibility of the sureties of tahsildars extends to the several cases provided for in this Regulation.]

3. If a Collector shall have a claim on the part of Government on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his Diwan or other head Native officer of his district for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and

<sup>1</sup> The word "tahsildars" was repealed by the Repealing Act, 1876 (12 of 1876), s. 3 (a), and inserted for Oath by Act 10 of 1876, s. 3 (a), *infra*.

<sup>2</sup> The original period clause which was repealed by the Repealing Act, 1876 (12 of 1876), s. 3 (a), was—

"*Sec. 2.*—The officers to which the tahsildars appointed under Regulation XXVII of 1857 are referred to give in clause second, section II of that Regulation, includes the persons to be called and furnished with from tahsildars of the above description as for the present law. The responsibility of these officers of said tahsildars is accordingly directed to extend to the several cases provided for in this Regulation."

The clause as now stands was added to the Regulation on the being declared in force in Oath and applies to Oath only, see the Oath Law Act, 1876 (13 of 1876), s. 3 (a), *infra*.

convey him to the gaol of the [Diwani Adalat of the zila, the Judge of which Court shall detain him]<sup>1</sup> in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized, likewise, to attach such part of the [real or personal]<sup>2</sup> property belonging to the officer as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.

If the property shall be situated within any other jurisdiction, the Collector is to apply to the Judge of the zila, through the vakil of Government, to make application to the Judge of such jurisdiction to attach and deliver it into the charge of the nearest Collector.

The Board of Revenue are empowered to order the property to be sold under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakil of Government and at the public expense, [and the rules in Regulation XXVII, 1803,<sup>3</sup> regarding suits so carried on by the Collectors, are to be held applicable to it.]<sup>4</sup>

Procedure  
where officers  
abscond or  
are not forth-  
coming.

4. If any such Native officer who may have retained public money or papers in his possession shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila;

or if he shall have taken refuge in any other zila, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

<sup>1</sup> In Oudh, read "District, where he shall be detained," for these words in square brackets, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*.

<sup>2</sup> In Oudh, read "movable or immovable" instead of "real or personal," see *ibid*.

<sup>3</sup> So much of Ben. Reg. 27 of 1803 as was unrepealed at the time the N.-W. P. Land-revenue Act, 1873 (19 of 1873), was passed was repealed by s. 2 of that Act in the Province of Agra.

<sup>4</sup> In Oudh these words and figures in square brackets are repealed, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*.

5. If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahri and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer.

or he may cause the officer to be apprehended by his own authority under section 3, if he be within the limits of the zila, or, if he shall have taken up his abode in any other zila or jurisdiction, by application to the Judge, in the manner directed in section 1.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession the Collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

8. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or, supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or a surety, and proceed to the trial of the suit.

and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded and the property restored to the owner.

7. If any such Native officer or his surety shall be committed to Native custody by the Collector, and shall not obtain his release in the mode specified in section 6, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been so detained, and should be deemed the demand upon him unjust.

18. The Collectors are to appoint one of the authorized valuers of the Chamber of Accounts to defend any suits which may be instituted against them by any of the interested parties.

[illegible]

such Native officers or their heirs or sureties, under this Regulation; and all the rules in Regulation XXVII, 1803,<sup>1</sup> regarding suits instituted against the Collector for sums demanded or received by him on behalf of Government are to be considered applicable to such suits.

## BENGAL REGULATION X OF 1804.<sup>2</sup>

THE BENGAL STATE-OFFENCES REGULATION, 1804.

[APPLIES TO THE UNITED PROVINCES.]

[14th December, 1804.]

A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of Certain Offences against the State by the Sentence of Courts-martial.

**Preamble.**      <sup>3</sup>1. [Whereas, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government, who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against

<sup>1</sup> So much of Ben. Reg. 27 of 1803 as was unrepealed at the time the N.-W. P. Land-revenue Act, 1873 (19 of 1873), was passed was repealed by s. 2 of that Act in the Province of Agra.

<sup>2</sup> Ben. Reg. 10 of 1804 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas, *see* Vol. III, Appendix.

The Regulation was declared by s. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), *infra*, to be one of the laws to be administered by the Courts in Oudh.

Short Title, the Bengal State Offences Regulation, 1804—*see* the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.

<sup>3</sup> In the application of the Regulation to Oudh, s. 1 is to be omitted, *see* Act 18 of 1876, s. 3 (e), *infra*.

the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified, the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.]

2. The Governor General in Council is hereby \* \* \* empowered to suspend or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zila, district, city or other place, within any part of [the British territories subject to the Government of the Presidency of Fort William], and to establish martial law thereon for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid,

and also to direct the immediate trial by Courts-martial of all persons owing allegiance to the British Government either in consequence of their having been born or of their being residents, within its territories and under its protection who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

3 \* \* \* Any person born or residing under the protection of the British Government within the territories aforesaid and consequently owing allegiance to the said Government who in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law shall be liable to the immediate punishment of death and shall suffer the same accordingly, by being hung by the neck till he is dead.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects.

*These Regulations were passed by the Council of Fort William on the 14th of April 1804.*

*The following is a copy of the original Regulation as it appears in the original MS. of the Council of Fort William, dated 14th April 1804.*

*The following is a copy of the original Regulation as it appears in the original MS. of the Council of Fort William, dated 14th April 1804.*

personal], which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

Governor General not precluded from causing persons charged with offence to be tried by ordinary Courts.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, \* \* \* \*<sup>1</sup> instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

### BENGAL REGULATION XI OF 1806.<sup>2</sup>

#### THE BENGAL TROOPS TRANSPORT AND TRAVELLERS' ASSISTANCE REGULATION, 1806.

[APPLIES TO THE UNITED PROVINCES.]

[3rd July, 1806.]

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories \* \* \* \*<sup>3</sup>

Preamble.

1. Whereas it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments

<sup>1</sup> The words and figures "or before any special Court appointed for the trial of such offences, under Regulation IV, 1799, and Regulation XX, 1805," were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> Ben. Reg. 11 of 1806 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has also been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Vol. III, Appendix.

The Regulation was declared by s. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), *infra*, to be one of the Laws to be administered by the Courts in Oudh.

It has been supplemented by Ben. Reg. 6 of 1825, *infra*.

Such part of the Regulation as authorized Collectors, etc., to give their official aid in procuring coolies for facilitating the march of troops or the progress of travellers was repealed by the Bengal Coolies Impressment Regulation, 1820 (3 of 1820), and in its application to Oudh such part was expressly omitted, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

Short title, the Bengal Troops Transport and Travellers' Assistance Regulation, 1806—see the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.

<sup>3</sup> The last part of the title was repealed by the Amending Act, 1891 (12 of 1891), s. 2 (1), General Acts, Vol. IV.

<sup>4</sup> S. 1 of the Regulation is repealed in its application to Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

through the Company's provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops:

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions, in procuring the means of prosecuting their journeys:

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of [the Company's territories],<sup>1</sup> the commanding officer of such detachment or corps is required to give the earliest practicable notice to the [Collectors of the Revenue]<sup>2</sup> of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the [Collectors]<sup>3</sup> the probable period of the arrival of the troops at the rivers or nalas intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them.

3. *First*.—On receiving the notification mentioned in the foregoing section, the [Collector]<sup>4</sup> shall immediately issue the necessary orders<sup>5</sup> to the land-holders, farmers, tahsildars or other persons in charge of the

<sup>1</sup> The part of the Preamble repealed by the Amending Act, 1821 (12 of 1821), General Acts, Vol. IV, is omitted.

<sup>2</sup> In Oudh read "Oudh" for the words "the Company's territories," see the Oudh Laws Act, 1876 (13 of 1876), Sch. II, *infra*.

<sup>3</sup> In Oudh read "Deputy Commissioner" for the words "Collectors of Revenue," see *ibid*.

<sup>4</sup> In Oudh, read "Deputy Commissioner" for "Collector," see *ibid*.

<sup>5</sup> In Oudh the words "The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions" were repealed by the Third Law Amendment Act, 1876 (14 of 1876), General Acts, Vol. IV.

<sup>6</sup> For power to impose fines for the non-observance of orders under s. 3, see Ben. Reg. 6 of 1825, *infra*.



lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march, without any impediment or delay.

The [Collector]<sup>1</sup> shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*,<sup>2</sup> boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Should he experience any difficulty in the performance of his duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons and of carts and bullocks required.

*Second.*—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided;

and all officers commanding detachments of troops or single corps marching through any part of [the Company's territories]<sup>3</sup> are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complaints as the nature of the case may appear to require.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsildar or other person, conformably to the orders of the [Collector]<sup>1</sup> of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

<sup>1</sup> In Oudh, read "Deputy Commissioner" for "Collector," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

<sup>2</sup> Repealed as to coolies, see first footnote to this Regulation, *supra*.

<sup>3</sup> In Oudh, read "Oudh" for "the Company's territories," see the Oudh Laws Act (18 of 1876), Sch. II, *infra*.

Police to assist in providing bearers, boatmen, carts and bullocks.

Rates for supplies furnished to troops.

Commanding officers to inquire into, and redress, complaints against persons under their command.

Certificate to be granted by commanding officer when troops provided with boats, etc.

*Second.*—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is however declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the [Collector] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2, the [Magistrate] shall transmit orders to the several police-darogas, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed [on the part of the Collector] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Certificate  
with state-  
ment of  
claim to be  
presented to  
Collector  
within ten  
days.

Procedure by  
Magistrate  
on receiving  
notice men-  
tioned in  
section 2.

<sup>1</sup> In Oudh, read "Deputy Commissioner" for "Collector," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.  
<sup>2</sup> In Oudh, read "Deputy Commissioner" for "Magistrate," see *ibid*.  
<sup>3</sup> In Oudh, read "by the Deputy Commissioner" for "on the part of the Collector," see *ibid*.

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17. Officers commanding detachments of troops or single corps, on their march through any part of [the Company's territories], are already required, by the General orders issued under date the 1st of February, 1855, to report to the Commander in Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In the manner the Collectors are directed to report to the Board of Revenue, . . . any complaints which may be made to them of the misbehaviour of the troops, when such complaints will appear to be well founded and of sufficient importance to require communication to Government

8. Whether any military officer, not commanding nor participating with a corps or detachment of troops, or any other person (whether Foreign or Native) authorized by Government from passing through the country, may be proceeded against with any part of [the Company's] stores? or on his private affairs, and whether he be in receipt of assistance during his route or on his return? or whether he be in receipt of any provisions or supplies for provisions or for himself or family?

On receiving an application of the above nature the police officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons. Provided that a sufficient number of persons who have been accustomed to act as betters, coolies, or boatmen, or the requisites number of carts and bullocks, not exclusively, as a property, or the purposes of agriculture and occasionally let for hire, as in the case provided with in this jurisdiction

[illegible]

1. In Oahu, 7 is repeated on the Oahu Plate, 4: 12-5 (13 of 12-6), 2: 11, 10/11.

1. The first of these is the fact that the majority of the population of the United States is of European descent. This is a fact which has been recognized by the government and the people of the United States for many years. It is a fact which has been recognized by the government and the people of the United States for many years.

[illegible]

*[Faint, illegible handwritten notes]*

*Troops Transport and Travellers* [1806: Ben. Reg. XI.  
Assistance.

*Foreign Immigrants.* [1812: Ben. Reg. XI.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station to the next zilla through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*,<sup>1</sup> boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,<sup>1</sup> boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. [Wearing of uniforms, &c.] *Rep. Act XVI of 1874.*  
10. [Trial of military guards by martial law.] *Rep. Act XII of 1876.*

11 and 12. [Rules for promulgating Regulations.] *Rep. Act XVI of 1874.*

13 to 19. [Rules for supplying military guards or detachments.] *Rep. Act XII of 1876.*

20. [Repealing clause.] *Rep. Bengal Regulation II of 1871.*

## BENGAL REGULATION XI OF 1812.<sup>2</sup>

THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812.

[APPLIES TO THE PROVINCE OF AGRA.]

[18th July, 1812.]

A Regulation to empower the [Local Government]<sup>3</sup> to order the removal of emigrants from foreign countries, and their

<sup>1</sup> Repealed as to "coolies," see first footnote to this Reg., *supra*.  
<sup>2</sup> Ben. Reg. 11 of 1812 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the scheduled portion of the Mirzapur District and in Jaunpur Bawar, see Vol. III, Appendix. Short title, the Bengal Foreign Immigrants Regulation, 1812—see the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.  
<sup>3</sup> The words "Local Government" in the title were substituted for "Governor General in Council" by the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.



persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the [Local Government]<sup>1</sup> to order such removal whenever<sup>2</sup> [it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated is likely to cause any serious misunderstanding between that State and the British Government.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [Local Government]<sup>1</sup> to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

In cases in which the [Local Government]<sup>1</sup> may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [Local Government]<sup>1</sup> to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the [Local Government]<sup>1</sup> necessary for the public good.

5. *First*.—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, \* \* \* and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

<sup>1</sup> The words "Local Government" were substituted for "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV. The word "it" was substituted for "he" by the Burma Laws Act, 1898 (13 of 1898), s. 16, Burma Code.

<sup>2</sup> See first footnote on next page.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrate.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

Emigrants allowed to dispose of property.

persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the [Local Government]<sup>1</sup> to order such removal whenever <sup>2</sup>[it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants  
allowed to  
dispose of  
property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [Local Government]<sup>1</sup> to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to  
order leaders  
or other emi-  
grants to be  
apprehended  
and kept  
under re-  
straint.

In cases in which the [Local Government]<sup>1</sup> may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [Local Government]<sup>1</sup> to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the [Local Government]<sup>1</sup> necessary for the public good.

Punishment  
for emigrants  
or their  
descendants  
exciting dis-  
turbances in  
countries  
from which  
they emi-  
grate.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, \* \* \* <sup>3</sup>and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

<sup>1</sup> The words "Local Government" were substituted for "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

<sup>2</sup> The word "it" was substituted for "he" by the Burma Laws Act, 1898 (13 of 1898), s. 16, Burma Code.

<sup>3</sup> See first footnote on next page.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence \* \* \* \* and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

Provided, however, that if the Judge \* \* \* by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]:

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [Local Government]<sup>1</sup> from the exercise of the power vested in the Government by section 1 of [this Regulation].<sup>2</sup>

## BENGAL REGULATION XX of 1817.<sup>3</sup>

### THE BENGAL POLICE REGULATION, 1817

#### [APPLIES TO THE PROVINCE OF AGRA]

[7th October, 1817.]

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of daroghas and other subordinate officers of Police \* \* \* \* \*

1 to 8. [*Preamble; local extent; repeal; appointment and removal of police-officers; rank and functions of officers on thana establishments;*

<sup>1</sup> The words "before the Court of Circuit" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The words "of Circuit" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>3</sup> These words were substituted for the words "to the Narayan Adalat, who will be \* \* \* of the Government General in that \* \* \* by authority of the present Regulation as they may judge proper" by the Amending Act, 1877 (V of 1877), General Acts, Vol. IV.

<sup>4</sup> See first footnote on the preceding page.

<sup>5</sup> The words "this Regulation" were substituted for "the said Regulation" by the Amending Act, 1868 (11 of 1868), General Acts, Vol. I.

<sup>6</sup> Section 1 of the Bengal Police Regulation of 1817—see the Amending Act, 1868 (11 of 1868), General Acts, Vol. I.

<sup>7</sup> The words "for regulating the existing Rules governing the Regulation of Prison of Criminal Process, and for extending further and to the Police in certain cases, the Provisions and Functions of Land and other Local Managers, as well as of the Mestries and other Heads of Villages" in the title were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.



*scul; police-accountments; police-officers at outposts; leave rules; thana records.] Rep. Act XVI of 1871.*

9. [*Police returns, &c., to be sent to Magistrates or Superintendents.*] *Rep. Act XVII of 1862.*

10 & 11. [*Transmission of official papers; prohibition of irregular practices.*] *Rep. Act XVI of 1871.*

12 to 20. [*Charges not cognizable by police; duties of officers on receiving charges; rules for holding inquests; inquiries into cases of heinous offences; search for stolen property; duties of police with regard to coiners and utterers of base coin; riots; treatment of prisoners; notorious offenders and vagrants.*] *Rep. Act. XVII of 1862.*

21. [*Village-watchmen.*] *Rep. Act. XVI of 1873.*

22 to 26. [*Concurrent jurisdiction of police-daroghas; prosecutors and witnesses; summons; arrest and bail; resistance or evasion of criminal process.*] *Rep. Act XVII of 1862.*

27. [*Distraint for arrears of land rent.*] *Rep. Act X of 1859.*

28. [*Ikuri.*] *Rep. Act XII of 1876.*

#### EXECUTION OF CRIMINAL PROCESS IN THE [OPIMUM DEPARTMENT],<sup>1</sup> AND DUTIES OF DAROGHAS RELATING TO [THAT DEPARTMENT].<sup>2</sup>

Security for appearance of persons employed under Opium Department accused of bailable offences.

29. *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any officer or person employed in the Opium Department, the daroghas of police shall transmit the summons or warrant, under a sealed cover, addressed to the Opium Agent, or the head Native officer of the arang, kothi or chauki, who will either give or direct sufficient security to be given for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the darogha's process to the thana.

*Second.*—In cases of bailable nature, in which a person under engagements, and employed in the Opium Department, may be summoned under the provisions of the preceding clause during the manu-

<sup>1</sup> The words "Opium Department" were substituted for "Commercial, Salt and Opium Departments" by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>2</sup> The words "that Department" were substituted for "those Departments" by *ibid.*

<sup>3</sup> The word "weaver" after the words "apprehend any," the words "engaged in the provision of the Company's investment or" after the word "person," the word "commercial" after the words "employed in the" and the words "commercial resident" after the words "addressed to the," were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>4</sup> The words "manufacturer, molungee or any" before "officer," and the words "Salt or" before the word "opium" in both the places in which it occurs in the first clause of the section were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>5</sup> The words "Commercial" and "Salt or" were repealed by the Repealing Acts of 1874 and 1876 (16 of 1874 and 12 of 1876), respectively.

In such cases accused not to be forced to appear till after manufacturing season.

facturing season, the darogha of police shall, with the view of preventing unnecessary interruption to the manufacturer, require the jury summoned to appear in person or by vald, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the darogha shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

*Third*—Summonses to . . . . . any officers or persons . . . . .  
 . . . . . employed in the . . . . . Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section, but the . . . . . Opium Agent, or the head Native officer of the urang, kothi or chanki, shall, instead of requiring the person summoned to give security or proceed to the thana, take from the witness a recognizance agreeable to the Form No. 13 of the Appendix,<sup>3</sup> and shall deliver the same to the officer serving the process.

*Fourth*—If a charge shall be preferred to a police darogha against any . . . . . officer or person . . . . . employed in the . . . . . Opium Department for an offence that is not bailable and there shall appear to the darogha of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

But the darogha, after securing the offender, is to give notice of his apprehension to the . . . . . Opium Agent, or to the head officer of the nearest urang, kothi or chanki as the case may be.

*Fifth to Eighth*—[Illicit salt.] *Reg. let III of 1875*

*Ninth*—All officers of police are strictly enjoined, under pain of dismissal from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium . . . . .

<sup>1</sup> The words "weavers" and the words "manufacturers, or buyers or sellers" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

<sup>2</sup> The words "employed in the provision of the Company's investment or" were repealed by Act 16 of 1874.

<sup>3</sup> The words "Commercial" and the words "Salt or" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

<sup>4</sup> The words "Commercial" and the words "Salt or" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

<sup>5</sup> *Idem*.  
<sup>6</sup> The words "weaver" and the words "or" were respectively repealed by Acts 16 of 1874 and 12 of 1876. The words "any, after the repeal of" were inserted as being necessary.

<sup>7</sup> The words "employed in the provision of the Company's investment or" were repealed by the repealing Act 1874 (16 of 1874).

<sup>8</sup> The words "as to" were repealed by the repealing Act 1874 (16 of 1874). The words "as to" were inserted by the repealing Act 1874 (16 of 1874).

seal; police-accountrements; police-officers at outposts; leave rules; thana records.] *Rep. Act XVI of 1874.*

9. [Police returns, &c., to be sent to Magistrates or Superintendents.] *Rep. Act XVII of 1862.*

10 & 11. [Transmission of official papers; prohibition of irregular practices.] *Rep. Act XVI of 1874.*

12 to 20. [Charges not cognizable by police; duties of officers on receiving charges; rules for holding inquests; inquiries into cases of heinous offences; search for stolen property; duties of police with regard to coiners and utterers of base coin; riots; treatment of prisoners; notorious offenders and vagrants.] *Rep. Act. XVII of 1862.*

21. [Village-watchmen.] *Rep. Act. XVI of 1873.*

22 to 26. [Concurrent jurisdiction of police-daroghas; prosecutors and witnesses; summons; arrest and bail; resistance or evasion of criminal process.] *Rep. Act XVII of 1862.*

27. [Distraint for arrears of land rent.] *Rep. Act X of 1859.*

28. [Abkari.] *Rep. Act XII of 1876.*

#### EXECUTION OF CRIMINAL PROCESS IN THE [OPIUM DEPARTMENT],<sup>1</sup> AND DUTIES OF DAROGHAS RELATING TO [THAT DEPARTMENT].<sup>2</sup>

Security for appearance of persons employed under Opium Department accused of bailable offences.

29. *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any \* \* \* \*<sup>3</sup> officer or person \* \* \* \*<sup>3</sup> employed in the \* \* \* \*<sup>3</sup> 4 Opium Department, the daroghas of police shall transmit the summons or warrant, under a sealed cover, addressed to the \* \* \* \*<sup>3</sup> 4 Opium Agent, or the head Native officer of the arang, kothi or chauki, who will either give or direct sufficient security to be given for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the darogha's process to the thana.

*Second.*—In cases of bailable nature, in which a person under engagements, and employed in the \* \* \* \*<sup>5</sup> Opium Department, may be summoned under the provisions of the preceding clause during the manu-

<sup>1</sup> The words "Opium Department" were substituted for "Commercial, Salt and Opium Departments" by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>2</sup> The words "that Department" were substituted for "those Departments" by *ibid.*

<sup>3</sup> The word "weaver" after the words "apprehend any," the words "engaged in the provision of the Company's investment or" after the word "person," the word "commercial" after the words "employed in the" and the words "commercial resident" after the words "addressed to the," were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>4</sup> The words "manufacturer, molungee or any" before "officer," and the words "Salt or" before the word "opium" in both the places in which it occurs in the first clause of the section were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>5</sup> The words "Commercial" and "Salt or" were repealed by the Repealing Acts of 1874 and 1876 (16 of 1874 and 12 of 1876), respectively.

In such cases accused not to be forced to appear till after manufacturing season.

32 [*Despatches of treasure*] Rep Act XII of 1876.

33 & 34 [*Rules relating generally to landholders, managers of estates, etc., police of cities*] Rep Act XI of 1874

## APPENDIX<sup>1</sup>

### Form No 13<sup>2</sup>

#### RECOGNIZANCE TO BE TAKEN FROM A WITNESS

Whereas I \_\_\_\_\_, inhabitant of \_\_\_\_\_,  
I have been named as a witness in the case of \_\_\_\_\_,  
I hereby engage to appear before the Magistrate of the zila [or city] of \_\_\_\_\_,  
\_\_\_\_\_ on or before the \_\_\_\_\_, for the  
purpose of giving evidence in default whereof I hereby further bind  
myself to pay such fine to Government as the Magistrate may judge  
proper to impose upon me as well as any expense that may be incurred  
in consequence of my non-attendance, for compelling my appearance  
in this I will not fail. Dated [according to the current era]

#### BENGAL REGULATION III of 1818<sup>3</sup>

##### THE BENGAL STATE PRISONERS REGULATION, 1818.

##### [APPLIES TO THE UNITED PROVINCS.]

[The 7th April, 1818.]

#### A Regulation for the confinement of State Prisoners<sup>4</sup>

1 Whereas reasons of State requiring the due maintenance of the Friendly  
alliances formed by the British Government with foreign Powers: the

<sup>1</sup> Sections 1, 4, 5, 7, 9 to 12 and 15 to 21 were repealed by the Amending Act 1871  
(12 of 1871), Forms 2, 3, 8 and 14 by Ben. Reg. 7 of 1872 and Form 6 by the N. W. P.  
Act 1 of 1874 and 1 of 1875.

<sup>2</sup> Secs. 22, clause 311, sup.

<sup>3</sup> Ben. Reg. 3 of 1818 was declared by the Laws Local Statute Act 1874 (15 of 1874)  
a 7<sup>th</sup> General Act, Vol. II, to be in force in the whole of the Province of Agra when the  
North Western Provinces, except as regards the Scheduled Districts. It has been  
declared by Act 1 of 1874 under the Scheduled Districts Act 1874 (14 of 1874) General  
Act, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in  
Jaunpur and it was extended by Act 1 of 1875 under the same Act to Kumaon and  
Garwal and the Terai Parganas—see Vol. III, Appendix.

<sup>4</sup> For declaration of Ben. Reg. 3 of 1818 to be in force in Oudh see the Oudh Laws  
Act 1874 (15 of 1874) s. 3 (c) note.

<sup>5</sup> As to the Bengal State Prisoners Regulation 1818—see the Amending Act 1871  
(12 of 1871) General Act, Vol. II.

<sup>6</sup> The further provisions relating to State Prisoners see the F. & P. Act 1874 (14 of 1874) respectively (Act 1 of 1874 and 13 of 1874) General Act, Vol. I.

preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British dominions from foreign hostility and from internal commotion occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be inadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others [situated within the territories dependent on the Presidency of Fort William]<sup>1</sup> should be attached and placed under the temporary management of the revenue-authorities without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government, the Vice-President in Council has enacted the following rules, [which are to take effect throughout the provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated].<sup>1</sup>

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Proceeding  
for placing  
persons under  
restraint as  
State prisoners.

<sup>1</sup> The words in brackets in ss. 1 and 2 (third) are not in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

*Second*—The warrant of commitment shall be in the following form —

To the [*here insert the officer's designation*]<sup>1</sup>

"Whereas the Governor General in Council for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*] you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council

"1 B.

Chief Secretary to Govt."

*Third*—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place [within the territories subject to the Presidency of Fort William].

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. *First*—When any State prisoner is in the custody of a Civil Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable provided they be not inconsistent with the orders of the Governor General in Council rested on that head.

*Second*—When any State prisoner is placed in the custody of any public officer not being a [Zila Magistrate] the Governor General in Council will instruct either the [Zila Magistrate], or the [Judge] or any other public officer, not being the person in whose

<sup>1</sup> As to the form of the warrant, see the State Prisoners Act, 1818, Sec. 17, and the Regulation III of 1818.

<sup>2</sup> See the form of the warrant, page 11.

<sup>3</sup> See the form of the warrant, page 11. See the State Prisoners Act, 1818, Sec. 17, and the Regulation III of 1818.

<sup>4</sup> The words "or any other public officer" were inserted by the Act, 1818, Sec. 17, and the Regulation III of 1818.

<sup>5</sup> The words "or any other public officer" were inserted by the Act, 1818, Sec. 17, and the Regulation III of 1818.

<sup>6</sup> In the State Prisoners Act, 1818, Sec. 17, and the Regulation III of 1818.

<sup>7</sup> In the State Prisoners Act, 1818, Sec. 17, and the Regulation III of 1818.

custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoners is duly appropriated to that object.

8. [*Persons already confined as State prisoners.*] *Rep. Act XVI of 1874.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,<sup>1</sup> \* \* \* \* \*

<sup>2</sup>[and to the Sadr Diwani Adalat and Nizamat Adalat.]<sup>3</sup>

Management of attached estates.

<sup>4</sup>10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached lands not liable to sale in execution.

*Second.*—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or

<sup>1</sup> The words "to the Provincial Court of Appeal and Circuit and" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The word "and" after "situated," was inserted by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>3</sup> In Oudh, for the words in brackets in s. 9 read "and to the Judicial Commissioner," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

<sup>4</sup> In Oudh, s. 10 is repealed, see *ibid*.

otherwise, during the period in which they may be so held under attachment.

*Third.*—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

## BENGAL REGULATION XI of 1822<sup>1</sup>

### THE BENGAL GOVERNMENT INDEMNITY REGULATION, 1822

#### [APPLIES TO THE UNITED PROVINCES.]

[22nd November, 1822.]

A Regulation \* \* \* \* for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue officers in certain cases.

1 & 2. [*Preamble; repeals.*] *Rep. Act XIX of 1873.*

3 to 35. [*Preamble; repeals; public sale of lands for arrears of revenue.*] *Rep. Act XII of 1871.*

36. [*Management of estates purchased by the Government.*] *Rep. Act XIX of 1873.*

37. [*Punishment for contempt.*] *Rep. Act XII of 1871.*

38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have

<sup>1</sup> Short title, the Bengal Government Indemnity Regulation, 1822—see the Amending Act, 1903 (1 of 1903), s. 2 (Bengal Code, Vol. I).

<sup>2</sup> The words "for prohibiting and explaining the existing Regulations relating to the sale of land for the recovery of arrears of Revenue" in the title were repealed by the Amending Act, 1901 (12 of 1901), General Acts, Vol. IV.

<sup>3</sup> It was declared, by the Laws Local Patent Act, 1774 (13 of 1774), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North Western Provinces), except as regards the Scheduled Districts. It has been declared, by Act 18 of 1874, to be in force in the Scheduled Districts. Act 1774 (13 of 1774), General Acts, Vol. II, to be in force in the scheduled portion of the District of Patna, in Kumaon and Garoah and in Jammu & Kashmir, and it was extended, by Act 1 of 1875, under the name Act 1 of the Third Part of the Vol. III, Appendix.

<sup>4</sup> Section 37 was declared by s. 3 of the Only Laws Act, 1897 (12 of 1897), to be one of the laws to be administered by the Courts of O. C.



occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid;

and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. [Saving of Bengal Regulation 1 of 1821.] Rep. Act XII of 1841.

## BENGAL REGULATION VI OF 1823.<sup>1</sup>

### THE BENGAL INDIGO CONTRACTS REGULATION, 1823.

[APPLIES TO THE PROVINCE OF AGRA.]

[10th July, 1823.]

A Regulation for authorizing the institution of Summary Suits to enforce the execution of certain written engagements for the cultivation and delivery of the Indigo-plant, and for declaring certain principles in regard to the same.

1. The poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land,

<sup>1</sup> Ben Reg. 6 of 1823 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Vol. III, Appendix.

Short title, the Bengal Indigo Contracts Regulation, 1823—see the Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I.

For further provisions as to indigo contracts, see the Bengal Indigo Contracts Regulation, 1830 (5 of 1830), and the Bengal Indigo-Contracts Act, 1836 (10 of 1836), *infra*.

either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood generally, to prevail, in the province of Bengal, in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting raiyat should fail to cultivate the land in the manner specified, or having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated stock, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances for the non-employment of his capital.

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers, as to the extent of penalty recoverable on agreements of this nature. \* \* \* \*

It seems reasonable also that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered. \* \* \* and that it should not be in the power of a raiyat who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays, and the very frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of it here.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes

\* W. 20, 21, passed by the Assembly A. 1802 (12 of 1802) General Act No. 13, are now lost.

\* The regulations for the province of Pegu in XX. 1812 were repealed by the General Act 1807 (11 of 1807).

*Government Indemnity.* [1822: Ben. Reg. XI.  
*Indigo-contracts.* [1823: Ben. Reg. VI.

occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid;

and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

The same principle is and shall be held applicable to all orders, proceedings, or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. [*String of Bengal Regulation 1 of 1821.*] *Rep. Act XII of 1821.*

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1. The poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land,

<sup>1</sup> Ben Reg. 6 of 1823 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Vol. III, Appendix.

Short title, the Bengal Indigo Contracts Regulation, 1823—see the Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I.

For further provisions as to indigo contracts, see the Bengal Indigo Contracts Regulation 1830 (5 of 1830), and the Bengal Indigo-Contracts Act, 1836 (10 of 1836), *infra*.

either at a certain fixed price, or at rates to be subsequently determined with reference to the market price at a specified season, and this system is understood generally, to prevail in the province of Bengal in the cultivation of the plant from which the indigo dye is extracted.

According to the existing Regulations if the contracting raiyat should fail to cultivate the land in the manner specified or having so cultivated the land, should sell the produce to another or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice in decreeing such causes to award such limited penalty as may in each instance appear to be a fair compensation to the person making the advances for the non-employment of his capital.

In the absence however of any rule for the regulation of the discretion thus assumed much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable in agreements of this nature. \* \* \*

It seems reasonable also that the person who advances seed and capital or capital only, for the expenses of cultivation on a defined parcel of land should be considered to possess a lien and interest in the produce of that land when so stipulated in a written agreement between the parties and especially in cases in which such written agreement may have been duly registered. \* \* \* and that it should be in the power of a raiyat who has already conditioned for the delivery of the produce of his land to any person to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides as above observed no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not infrequently led to acts of violence and even to serious effusions of blood. The more frequent occurrence of such affairs is to be apprehended as consequences of the deeper corruption which now prevails amongst the ruling and factious in some parts of Bengal arising from the total abolition of the *Amildars*.

The Governor General in Council has in consequence published a regulation to declare the principles on which the parties above stated shall be settled and to provide for the more prompt and efficient disposal of

<sup>1</sup> This was passed by the Board of Directors of the East India Company on the 11th of June 1823.

<sup>2</sup> The regulations relating to the management of the land in XXII were passed by the Board of Directors on the 11th of June 1823.

and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the province of Bengal from the date of their promulgation.

When persons making advances for cultivation of indigo-plant, on certain land, have lien or interest in its produce.

2. If any person shall have given advances to a raiyat or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

Such person how to proceed when he has just reason to believe that raiyat will dispose of produce otherwise than stipulated.

3. *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zila <sup>\*1</sup> Judge \* \* \* \*1 within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for attendance of defendant.

*Second.*—On such petition and original deed of engagement being filed, a summons, or talab chitthi, shall be immediately issued through the nazir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons how served;

*Third.*—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahri or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public notice of claim how given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose; and the failure so to attend, before the summary decision be passed, will be held

<sup>1</sup> The words "or City" before "Judge" and the words "or to a Registrar exercising the powers of a Joint Magistrate" after "Judge" were repealed by the Repealing Act, 1874 (16 of 1874).

to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

*Fourth* — If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and if no other claim be preferred in bar of that of the plaintiff, the Judge shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim in the same manner as if the defendant had personally appeared.

*Fifth* — If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant proof of the same shall be taken, and if its voluntary execution be established to the satisfaction of the Court, and no profitable claim be established by a third party, a summary award shall be made adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why defendant should not be held to the performance of his contract.

*Sixth* — If it be proved that the engagement was not duly and voluntarily executed by the defendant or if it should appear that the proceeding is otherwise litigious and oppressive and the claim unfounded, that the plaintiff had no sufficient cause to warrant his application to Court, the complaint shall be dismissed, and the plaintiff shall be held liable to the payment of costs and such reasonable sum in addition as may seem to the Judge, as a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

*Seventh* — If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead in person or by a bail.

and if such person or any third party shall previously to the decision of the case come forward and produce a similar deed of engagement stipulating for the produce of the same portion of land, the Judge shall, after such summary investigation as may be necessary, determine whether either of the parties have any pretensions to the produce of the land, and if so, which of them may have the preference there-

<sup>1</sup> The words "or other effect" in Article First were given by the American Act 1801 (22 of 1) General Act No. IV.

<sup>2</sup> The words "or other to be made" in the same article were given by the same Act, and in some have been corrected.

and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the province of Bengal from the date of their promulgation.

When persons making advances for cultivation of indigo-plant, on certain land, have lien or interest in its produce.

2. If any person shall have given advances to a raiyat or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

Such person how to proceed when he has just reason to believe that raiyat will dispose of produce otherwise than stipulated.

3. *First.*—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zila \* \* \*<sup>1</sup> Judge \* \* \*<sup>1</sup> within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for attendance of defendant.

*Second.*—On such petition and original deed of engagement being filed, a summons, or talab chitthi, shall be immediately issued through the nazir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons how served;

*Third.*—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahri or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public notice of claim how given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose; and the failure so to attend, before the summary decision be passed, will be held

<sup>1</sup> The words "or City" before "Judge" and the words "or to a Registrar exercising the powers of a Joint Magistrate" after "Judge" were repealed by the Repealing Act, 1874 (16 of 1874).

to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

*Fourth* —If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim in the same manner as if the defendant had personally appeared.

*Fifth* —If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant proof of the same shall be taken, and if its voluntary execution be established to the satisfaction of the Court, and no preferable claim be established by a third party, a summary award shall be made adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why defendant should not be held to the performance of his contract.

*Sixth* —If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be liable to the payment of costs and such reasonable sum in addition as may seem to the Judge, and a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

*Seventh* —If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by agent.

And if such person or any third party shall present itself to the decision of the Court, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and if so, which of them may have the prior and better

<sup>1</sup> The words "or otherwise" were inserted by the Amendment Act, 1861 (12 of 1861) Section 45.

<sup>2</sup> The words "or otherwise" were inserted by the Amendment Act, 1861 (12 of 1861) Section 45. The words "or otherwise" were inserted by the Amendment Act, 1861 (12 of 1861) Section 45.



claim: a preference will of course be given to engagements duly registered

The result of such investigation shall be recorded, and a decree-passed adjudging the question of right between the parties.

Defendant  
not to be  
subjected to  
unnecessary  
detention.

*Eighth.*—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases  
order may  
issue to  
deliver plant  
to a party,  
before  
summary  
inquiry  
completed.

*Ninth.*—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge \* \* \* \* \*<sup>2</sup> to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation:

the amount of such compensation shall be fixed by the Judge \* \* \*<sup>2</sup> in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured: and the amount, when so fixed, shall be carefully recorded on the proceedings.

Authority to  
watch fields  
and to pre-  
vent removal  
of plant,  
given to  
parties in  
certain cir-  
cumstances.

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement;

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police-darogha and to claim from him the assistance of the police in preventing such removal;

it shall, moreover, be the duty of the police-officers, and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Security for  
rent due to  
landholders  
how provided.

*Second.*—In order that the foregoing rule may not operate to the prejudice of the landholders, who, \* \* \* \* \*<sup>3</sup> are authorized to

<sup>1</sup> The words "under the provisions of Regulation XX, 1812," were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>2</sup> The words "or other officer trying the case" and the words "or other person trying the case" in the ninth clause were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>3</sup> The words "by the existing Regulations" were repealed by the Repealing Act, 1874 (16 of 1874).

attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer who may have obtained an award under the foregoing rules may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific piece of ground from which the indigo plant may have been taken.

5. *First.*—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold made away with or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute at his option, either a summary or a regular suit

*Second.*—If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him with interest on the same, and the costs of the summary process

*Third.*—[*Judgments in regular suits*] *Rep. Act X of 1826*

*Fourth.*—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest

6. Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of suits for arrears of rent. \* \* \* \* \* it shall be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside, or who may be otherwise dissatisfied with the decision passed on (an investigation) under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled

7 and 8. [*Star duties.*] *Rep. Act VII of 1870*

"The word 'summary' in the phrase 'they shall be tried by the Judge, or be referred to the Collector (if the district be a Pargana)' in cases referred to the Collector, that officer (as well as the Pargana) shall pass a decision on them, instead of sending them back to the Judge with a report, and there shall be no appeal from any summary decision passed by the officer mentioned, if such decision be in a matter directly or indirectly for the benefit of the said Pargana, and the words 'or be referred to the Collector' were inserted by Act 12 of 1864

"These words in brackets were inserted for the words 'a summary trial' by the Amending Act, 1871 (12 of 1871) General Act, Vol. IV

BENGAL REGULATION VII OF 1823.<sup>1</sup>THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION  
REGULATION, 1823.

[APPLIES TO THE PROVINCE OF AGRA.]

[30th October, 1823.]

A Regulation for prohibiting Loans by Covenanted Civil  
Servants from Persons subject to their Official Authority  
and Influence.

Preamble.

1. Whereas by the existing Regulations all covenanted civil servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdar, under-farmer or raiyat, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence; the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency.

Civil ser-  
vants  
prohibited  
from borrow-  
ing money  
from Native  
officers under  
their author-  
ity, etc.,

2. *First.*—All covenanted civil servants, in whatever department of the public service they may be employed, are henceforward prohibited under pain of dismissal from office from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependent of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependent.

and from  
other persons  
officially  
accountable  
to them.

*Second.*—In like manner, and under the like penalty, all officers of Government, being covenanted civil servants, are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, amin, sazawal, gumashta, farmer, mutawalli or other person who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection and dependent of such person.

*Third.*—[Rules applied to commercial officers.] *Rep. Act XVI of 1874.*

<sup>1</sup> Ben. Reg. 7 of 1823 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Vol. III, Appendix.

Short title, the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823—see the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.

3. [All Commissioners, District and Session Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service] are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to any individual, Hindu, Muhammad, or other person possessing real property within, the city, district or division to which their authority may extend.

4. All persons are prohibited from lending money or otherwise becoming in any way creditor, to any officer of Government being a warranted civil servant, in contravention of the above rules

and any person lending money or in any way becoming creditor to any such public officer in breach of this prohibition shall be liable to Government a sum equal to the amount for which he shall have become creditor

5. [Report by officers in debt] *Reg. Act XVI of 1871*

6. \* \* \* If any warranted servant who is appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract while holding such office, it shall be incumbent on such officer, on entering on the duties of the office, to make known the circumstances of the [Local Government], and, failing to do so, he shall be liable to the same penalty as if the debt had been contracted since he was appointed to the said office

7. [Penalty on Officers knowingly violating office in contravention of the rules] *Reg. Act I of 1903*

8. Suits for the recovery of penalties incurred under the [Local Government] shall and may be instituted under the special instructions of the [Local Government] and shall be conducted by the Superintendent and Receiver of Legal Affairs, or by such other officers [the Local Government] may nominate for that purpose.

Such suits shall be instituted in the Court of the district within which the transaction may have taken place, or the holder of any real or personal property

\* These were inserted in the original Bill as proposed by the Government of India, but were not included in the Bill as passed by the Council of the Government of India, and were not included in the Bill as passed by the Council of the Government of India.

\* These were inserted in the original Bill as proposed by the Government of India, but were not included in the Bill as passed by the Council of the Government of India, and were not included in the Bill as passed by the Council of the Government of India.

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits, \* \* \*<sup>1</sup> and the judgments shall be enforced under the provisions \* \* \*<sup>1</sup> for the execution of other decrees of the Civil Courts.

## BENGAL REGULATION VI OF 1825.<sup>2</sup>

THE BENGAL TROOPS TRANSPORT REGULATION, 1825

[APPLIES TO THE UNITED PROVINCES.]

[4th April, 1825.]

A Regulation for rendering more effectual the Rules in force relative to supplies and preparations for Troops proceeding through the British Territories.

Preamble.

1. Whereas it is enacted in the first clause of section 3, Regulation XI, 1806,<sup>3</sup> that, on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nalas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors, or other public officers acting in that capacity, to enforce their orders in the cases above mentioned, by imposing a fine upon any landholder, tahsildar or other person in the possession or management of land who, after receiving the requisition issued in pursuance of the section

<sup>1</sup> The words "by the Provincial Courts" after the word "suits" and the words "of the Regulations" after the word "provisions" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> Ben. Reg. 6 of 1825 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas, see Vol. III, Appendix.

Short title, the Bengal Troops Transport Regulation, 1825—see Act 5 of 1897, Genl. Acts, Vol. IV.

S. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), declares the Regulation to be one of the laws to be administered by the Courts in Oudh, *infra*.

<sup>3</sup> *Supra*.

above cited, may be proved to have wilfully disobeyed or neglected the same, the Governor General in Council has therefore enacted the following rules "[to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William]

2. Any landholder, farmer, tradesman or other person in the possession or management of land who may have been duly required by a collector of the land revenue (or any public officer acting in that capacity) in pursuance of section 1, Regulation XI, 1866], to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of that kind for bridges or otherwise for enabling the troops to cross rivers or other impediments intersecting their march and after the receipt of such requisition wilfully disobey or neglect the same or shall without sufficient cause fail to exert himself for the due execution of the duty on a signed order shall, on proof of such failure neglect or disobedience to the satisfaction of the collector (or other officer acting in that capacity) by whom the order may have been issued or of his successor in the same office be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case in such amount as the collector or other officer, with due regard to these considerations, may judge it proper to impose so that the fine shall not in any case exceed the sum of one thousand rupees.

3. The Collector, or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged, and disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by valid proxy, that

if he shall fail to attend, either in person or by valid excuse, any inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

4. The Collector or other officer who may be authorized in this behalf shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue.

Provided that if an appeal is preferred from his decision, within six calendar weeks from the date of it, to the Board of Revenue . . . . .

1. The above is a list of the names of the persons who have been identified as having been involved in the activities of the group. The names are listed in alphabetical order.

<sup>2</sup>The word "Gila" was given by the Indians to the hills of  $20^{\circ}$  and  $21^{\circ}$  N.

and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of  
 appeal  
 against fine.

5. Appeals from the orders of Collectors or other public officers adjudging fines under this Regulation may be preferred<sup>1</sup> \* \* \* \* \* either immediately to the <sup>2</sup> Board or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of  
 appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment without proof of sufficient reason for the delay, to the satisfaction of the Board \* \* \* \* \*

## BENGAL REGULATION XI OF 1825.<sup>4</sup>

THE BENGAL ALLUVION AND DILUVION REGULATION, 1825.

[APPLIES TO THE UNITED PROVINCES.]

[26th May, 1825.]

A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by Alluvion, or by Dereliction of a River or the Sea.

Preamble.

“1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks,

<sup>1</sup> The words “on the stamped paper prescribed for other appeals to the Revenue Boards” in s. 5 were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>2</sup> The word “proper” before the word “Board” in s. 5 was repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>3</sup> The words “by whom the case may be cognizable” were repealed by *ibid*.

<sup>4</sup> Ben. Reg. 11 of 1825 was declared, by s. 7 of the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District, and in Jaunsar Bawar, and it was extended, by notification under the same Act, to the Tarai Parganas, see Vol. III, Appendix.

S. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), declares the Regulation to be one of the laws to be administered by the Courts in Oudh, *infra*.

Short title, the Bengal Alluvion and Diluvion Regulation, 1825—see the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.

<sup>5</sup> Section 1 of the Regulation is not in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

and large portions of land are carried away by an encroachment of the river on one side, whilst accretions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side, similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above mentioned are a frequent source of contention and affairs, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming claims or other lands gained in the manner above described.

The Court of Sadr Diwan Adalat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Diwan Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Court of Judicature, to be in force as soon as promulgated, throughout the whole of the provinces subject to the Presidency of Fort William.

2. Whenever any clear and definite usage of shikast pargana respecting the disjunction and junction of land by the encroachment or access of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them whatever changes may take place in the course of the river by encroachment on one side and access on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

3. Where there may be no local usage of the nature referred to in the preceding section the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction [either] of a river [or the sea].

4. First.—When land may be gained by gradual process [whether] from the access of a river [or the sea] it shall be held to be the property of the proprietor of the land to which it is attached.

The following rules are in force in the provinces of Bengal and the District of Calcutta.



an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamindar or other superior land-holder, or as a subordinate tenure by any description of under-tenant whatever:

Extents of  
interests in  
increment of  
person in  
possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under <sup>1</sup>[the provisions of Regulation II, 1819,<sup>2</sup> or of any other Regulation in force]:

Nor if annexed to a subordinate tenure held under a superior land-holder shall the under-tenant, whether a khudkast raiyat, holding a maurusi istimrari tenure at a fixed rate of rent per bigha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

When river  
by sudden  
change of  
course inter-  
sects estate.

*Second.*—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown  
up in navi-  
gable river.

*Third.*—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), <sup>3</sup>[or in the sea], and the channel of the river <sup>3</sup>[or sea] between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Property  
therein when  
channel  
fordable.

But, if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

<sup>1</sup> In Oudh, for the words and figures in brackets read "any law in force for the time being," see Act 18 of 1876, Sch. II, *infra*.

<sup>2</sup> So far as it related to the Province of Agra, Ben. Reg. 2 of 1819 was repealed, by N.-W. P. Land-revenue Act, 1873 (19 of 1873).

<sup>3</sup> In Oudh, the words in brackets in the third clause of s. 4 are repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.



Record of  
criminal con-  
viction suffi-  
cient for com-  
pelling refund  
of property  
corruptly  
taken or ex-  
torted.

5. From and after the date of this Regulation it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by <sup>1</sup>[the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court \* \* \* \* \*

6. [Amount of embezzlement to be paid in first instance from public treasury.] Rep. Act XVI of 1874.

### BENGAL REGULATION V OF 1827.<sup>3</sup>

THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827.

[APPLIES TO THE PROVINCE OF AGRA.]

[27th December, 1827.]

A Regulation for modifying the Rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue; the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification  
of Regula-  
tions regard-  
ing manage-  
ment of  
estates under  
attachment.

2. The rules contained in sections 5 and 6, Regulation V, 1799,<sup>4</sup> \* \* \* \* \*<sup>5</sup> regarding the administration and management of estates under orders of the Zila <sup>6</sup>Courts, are hereby declared subject to the following modifications.

<sup>1</sup> The words "the Court" were substituted for the words "a Court of Circuit, or the Nizamat Adalat" by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. 1.

<sup>2</sup> The words "on the stamp-paper prescribed for miscellaneous petitions" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>3</sup> Ben. Reg. 5 of 1827 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, see Vol. III, Appendix.

Short title, the Bengal Attached Estates Management Regulation, 1827—see Act 5 of 1897, General Acts, Vol. IV.

<sup>4</sup> *Supra*.

<sup>5</sup> The words and figures "and clauses 5 and 6, section XVI, Regulation III, 1803," after the figures "1799" were repealed by the Amending Act, 1903 (1 of 1903), s. 4; and the words and figures "and sections XXVI and XXVII, Regulation V, 1812, and clause third, section V, Regulation VI, 1813" before the word "regarding" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>6</sup> The words "and City" in s. 2 were repealed by Act 16 of 1874.

1827: Ben. Reg. V.] *Attached Estates Management.*

1828: Ben. Reg. VII.] *Benares Family Domains.*

3. Whenever the Zila \* \* \* Courts may deem it just and proper to, under the provisions of the [Regulation] it is directed to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of Land Revenue of the District where the estate may be situated directing him to hold the estate to satisfaction, and to appoint a person for the due care and management of the estate under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof.

Provided, however, that, if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

4. The precept of the Zila \* \* \* Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

## BENGAL REGULATION VII of 1828

### THE BENARIS FAMILY DOMAINS REGULATION 1828

#### [APPLIES TO THE PROVINCE OF AGRA]

[12th September, 1828]

A Regulation for amending the provisions of 'Regulation XV, 1795, and for defining the authority of the Raza of Benares in the Mahals therein referred to

1. By an arrangement concluded in the year 1791 with Raja Mahip Singh, the administration of justice in the parganas of Bahar, Kera Mangror, and that part of former Kanyas Ganga, and that of the Raja's family estate, so far as relates to matters connected with the revenue was separately provided for, and in conformity therewith the

\* The words "and Courts" in Regulation V of 1827 were inserted by the repealing Act, 1874 (No. 1 of 1874).

\* The word "land" in Regulation VII of 1828 was amended by Act No. 1 of 1874 (No. 1 of 1874) to read "land and other property".

\* The Regulation has been repealed, for as it relates to Parganas Bahar, Kera Mangror, and that part of former Kanyas Ganga, and that of the Raja's family estate, so far as relates to matters connected with the revenue.

Ben. Reg. XV, 1795, from which

... was retained to the Raja with a  
... but it was to be con-  
... the Collector, and with  
... an arrangement  
... the observance  
... the recognition of  
... its dealings

... from the absence  
... the exercise of the privi-  
... in other respects  
... the following provisions  
... the whole of the mahals in

1795, section 8. <sup>2</sup>Regulation

Ben. Reg. XV, 1795, hereby declared subject to the

... of the said mahals shall be vested in the  
... Division, hereinafter called "the Superin-

... North-Western Provinces may,  
... of the said mahals,  
... the Superintendent, to  
... of the Superinten-

... connected with the  
... agency of the Raja,  
... the restrictions herein pre-

... the reservation of this privi-  
... be understood as divest-  
... the population of any of the right  
... connected with the  
... by sale, gift or in-  
... or the produce of it, which immemorially belong to them, and  
... enjoyed by similar classes throughout the rest of the province.

<sup>1</sup> See

<sup>2</sup> So much of Ben. Regs. II and V of 1795 as was not already then repealed was repealed  
by the N. W. P. Land-revenue Act, 1873 (19 of 1873), ss. 1 and 2.

<sup>3</sup> This section was substituted for the original by the Benares Family Domains Act,  
1901 (11 of 1901), *infra*.

... ran as follows:—

... of the mahals above mentioned shall be vested in such  
... General in Council may, from time to time, by an  
... int."

<sup>4</sup> Now th

<sup>5</sup> For pow

... ed Provinces of Agra and Oudh.

... tendent, see the U. P. Local Rules and Orders.

5 *First*—No mufassal or detailed settlement having been formed within the mahals in question by the authority of Government, the assessment of the land, and the settlement of the several villages comprised in them, shall be made through the channel of the Raja, who is to be guided in all matters relative thereto by the general rules in force within the province of Benares applicable to such cases

Settlement of lands to be made by Raja under general rules in force

*Second*—In the selection of parties to engage those individuals shall be considered entitled to preference who, had a detailed settlement been extended to these mahals under the Regulations of 1795, would have been recognized as zamindars

Rules for selecting parties to be admitted to engage for payment of revenue

Such individuals shall be recorded under the designation of raias and the tenures so belonging to them shall be considered heritable and transferable subject to the conditions in regard to the payment of the jama assessed upon them and under which they may be admitted to engagements

When there may be no raias entitled to claim admission, or where the latter may refuse to engage on just terms, the settlement shall be made for a fixed period with farmers unless the Raja should prefer making a raiyatwari settlement and collecting the public dues through his own officers immediately from the raiyats

*Third*—The assessment of all lands not entitled to be considered rent free \* \* \* \* shall be fixed with reference to their produce and capability, as ascertained at the time when the revision of the settlement may be made

Rules for fixing assessment of malguzari lands

But the assessment shall not be raised above the amount heretofore paid unless it shall clearly appear that the nett profits derived from the land by those who may be entitled to share in them would under the usage of the province and the rules applicable to such cases authorize the increase demanded

*Fourth*—In admitting particular parties to engagements such parties shall not be considered as invested with any rights over their co sharers or undertenants not previously possessed by them excepting in so far as may be authorized by the Regulations for realizing the public revenue;

Effect of admission to engagements on rights or interests of co sharers or other tenants

All questions therefore between pattidars and sharers, inheriting or claiming to inherit joint or distinct portions of a tenure or the produce thereof shall notwithstanding such admission be considered open to adjustment on the principles observed in similar cases throughout the province and all questions regarding the right to possession of khudkast and chhapparband raiyats shall be adjusted on the same principles

*Fifth*—It shall be the duty of the Raja, on occasion of making or revising settlements of land revenue in any of the mahals referred to in Regulation XV, 1795,<sup>2</sup> to unite with the adjustment of the assessment

Points to be ascertained and recorded on making or revising settlements

<sup>1</sup> The words and figures under the rules contained in Regulation XLI 1795 were repealed by the Benares Family Domains Act 1881 (14 of 1881) s 2 *infra*

<sup>2</sup> *Supra*

and the investigation of the extent and produce of the lands, the object of ascertaining and recording all material points connected with the rights, interests and privileges of the various classes of his tenantry.

His proceedings therefore shall embrace the formation of as accurate a record as possible of all persons found in possession of the soil, with a specification of the nature and extent of the interests respectively enjoyed by them.

The record shall likewise specify the rates per bigha of each description of land or kind of produce in every distinct village.

All lakhiraj tenures shall, at the same time, be carefully registered, with a detail of every particular connected therewith.

The proceedings shall likewise contain the names of the patwaris and village-watchmen, with a statement of the amount and nature of the allowance assigned to each.

Rules for  
estates held  
in joint  
property.

*Sixth.*—In cases where two or more persons may possess a joint property in any mahal, or in the rent or produce thereof, or in cases where such property may be separately possessed by parties subject to common obligations, it shall be competent to the Raja either to make a joint settlement with the parties collectively, or with a portion of them selected to undertake the management as village-malguzars; due regard being paid to the wishes of the co-parceners, who, until regularly separated, shall continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue at the rates and in the mode heretofore in use or otherwise provided for by the Regulations for the province of Benares.

Responsibility of parties  
under engagements, and  
of pattidars  
and sharers.

*Seventh.*—When parties enter into engagements who do not possess the entire proprietary right, but may be elected as managers by the co-parcenary in general, the non-engaging parceners shall not be held answerable or the default of those individuals, save and except the portion of rent or revenue demandable from them respectively.

Disputes  
between  
them how  
determined.

The rights and interests, distinct or common, of the pattidars or sharers shall not be prejudiced in other respects by such engagements; and all disputes between the said sharers and the engaging proprietors shall be determined according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the province.

Proprietary  
rights in land  
may be  
transferred  
by sale, gift,  
mortgage  
or otherwise.

*6. First.*—All proprietors of land in the province of Benares, being privileged to transfer to whomsoever they think proper, by sale, gift, mortgage or otherwise, their proprietary right in the whole or any portion of their respective estates, provided that such transfers be conformable to the Hindu or Muhammadan laws, according to the religious persuasions of the parties and to the Regulations in force, it is hereby

declared that all such assignments, within the tracts to which this enactment refers, shall be held equally valid subject to the conditions in regard to leases, and the allotment of jama prescribed by the Regulations

Provided always that the same be duly notified to the Raja, otherwise the consequences of omitting to make such notification on similar occasions to the Collector will, in like manner, attach to all such transfers; the rules and restrictions applicable to Collectors being also applied to the Raja subject to the orders of the Superintendent, who shall, in this behalf, possess and exercise the powers and authority of the Board of Revenue

Transfers to be notified to Raja

Second —In all cases, either of transfer or inheritance, the Raja, on application being made for that purpose, shall proceed to record the mutation, and shall take such other steps for securing the rights and interests both of the public and of individuals as the Collectors are required to do on similar occasions in the Benares province.

In cases of transfer or inheritance, Raja to record mutation, etc

7. The decision of the Raja or his officers, on all points connected with the foregoing provisions, shall undergo the revision of the Superintendent to whom the whole of the proceedings on the settlement or transfer of any estate shall be certified, and who, after calling for such further information as may appear necessary, shall confirm, modify or annul the same as he thinks proper [The orders thus passed by the Superintendent shall be subject to appeal to, and revision by, the Board of Revenue, whose order thereon shall be final, unless altered or set aside by the said Lieutenant-Governor]

Decision of Raja, subject to revision.

8 The following rules are prescribed for the guidance of the Raja and his officers in realizing the public revenue

Rules for realizing public revenue

9. [The enactments for the time being in force in the North-Western Provinces] for enabling proprietors and farmers of land to realize their rents with punctuality, for prescribing the process by which the revenue-authorities are to collect the revenue payable to Government from the lands, for the imprisonment of defaulters, and for securing the ultimate recovery of arrears, by a sale of the landed property from which it may be due, are hereby extended, as far as they may be applicable [and

Enactments in force in the North Western Provinces for realizing public revenues extended to tracts referred to in Reg. XV of 1795.

<sup>1</sup> These words at the end of s 7 were substituted for the words "and the orders thus passed by the Superintendent shall be final unless altered and set aside by the Governor General in Council" by the Benares Family Domains Act 1831 (14 of 1831) s 4, *infra*

<sup>2</sup> These words at the beginning of s 9 were substituted for the words "the Regulations at present in force within the Province of Benares" by Act 14 of 1831, s 5 *infra*

<sup>3</sup> These words were inserted by the Benares Family Domains Act, 1831 (14 of 1831), s 5, *infra*



the Local Government with the concurrence of the Maharaja, may direct], to the tracts referred to in Regulation XV, 1795.<sup>1</sup>

Raja  
authorized  
to exercise  
certain  
powers of  
Collector.

10. Exclusive of the powers vested in the Raja as zamindar, by which he may distrain and bring to sale, in the mode prescribed by the Regulations, the personal property of under-zamindars, farmers, raiyats or other description of land-holder, for arrears of rent or revenue, he is hereby, moreover, authorized, as far as regards the collection of the same, to exercise the powers of a Collector, as defined in the Regulations, within the tracts in question, subject to such restrictions and responsibility as may be now or hereafter imposed by this or any future enactment.

<sup>2</sup>[The Maharaja may delegate to one or more of his officers the exercise of all or any of the powers vested in him under this section in the whole or any part of the said mahals.]

Sale of land  
for arrears of  
revenue, etc.,  
how held.

11. Whenever it may be necessary to resort to the sale of lands for the recovery of arrears of revenue, or whenever a sale of lands may be required in satisfaction of the decrees of the Courts of Judicature, the sale shall be held in the presence of the Raja or his deputy, either in the public kachari or such other open or convenient place within the pargana to which the lands belong as may be specified in the advertisement, and the course of proceeding directed in regard to sales by <sup>3</sup>[the enactments for the time being in force in the North-Western Provinces] shall be considered applicable, and the validity of such sales held contingent on the fulfilment of the several conditions therein specified.

Powers of  
Commissioner  
and Boards of  
Revenue, in  
regard to  
land-sales  
and collection  
of revenue  
vested in  
Superin-  
tendent.

12. The whole of the powers which are exercised by the <sup>4</sup>[Commissioners of Divisions and the Board of Revenue] over the Collectors, in regard to sales of land, as well as in all matters relative to the collection of public revenue, are hereby vested in the Superintendent, and the Raja shall consider himself, in the exercise of the privileges with which he is entrusted, as standing in the same relation towards that officer as the Collectors at present stand <sup>4</sup>[towards the Commissioner].

Appeal from  
orders of Su-  
perintendent.

13. From the orders of the Superintendent in all such cases there shall be no appeal but to the <sup>5</sup>[Board of Revenue], and the Civil Courts are not competent to take cognizance of any complaint, from any party soever, contesting the validity of a sale, or claiming rights or interests connected with land, or the rents thereof, within the tracts in question.

<sup>1</sup> *Supra*.

<sup>2</sup> These words in s. 10 were added by the Benares Family Domains Act, 1881 (14 of 1881), s. 6, *infra*.

<sup>3</sup> These words in s. 11 were substituted for the word and figures "Regulation XI, 1822," by Act 14 of 1881, s. 7, *infra*.

<sup>4</sup> These words in s. 12 were substituted for the words "Boards of Revenue" and "towards the Board" respectively by Act 14 of 1881, s. 8, *infra*.

<sup>5</sup> These words in s. 13 were substituted for the words "Governor General in Council" by Act 14 of 1881, s. 9, *infra*.

14 All complaints of a breach of the rules herein prescribed for the guidance of the Raja and his officers in the exercise of the powers thereby entrusted to them, or of unnecessary severity in the execution of them, are declared cognizable by the Superintendent, who shall cause substantial justice to be rendered to the parties in the same manner as would have been done \* \* \* had such complaints been cognizable by the regular Courts

Complaints against Raja and his officers for breach of rules

Provided only that, when the offence alleged would authorize a criminal prosecution the complaint shall be referred to the Magistrate, who will proceed to the decision thereof \* \* \* in the same manner as if it had been originally preferred to him

15 Torture, personal violence and every description of corporal punishment to enforce the payment of arrears of rent or revenue, within the tract in question are hereby strictly prohibited and any one offending against this prohibition shall on the complaint of a person so punished be liable to prosecution before the Criminal Courts and shall be dealt with on conviction as the Regulations require in such cases

Certain punishments to enforce payment of arrears of rent strictly prohibited

16 In order to secure for the inhabitants of these mahals the administration of civil justice on the principles in force throughout the rest of the Province, <sup>2</sup>[a Native Commissioner or two or three Native Commissioners as the said Lieutenant Governor may, from time to time, direct, shall be maintained by the Maharaja] for the purpose of taking cognizance in the first instance of the revenue-causes hereafter specified

Native Commissioners to be maintained by Raja to take cognizance of revenue causes

<sup>3</sup>[The local limits of the jurisdiction of the Native Commissioners shall be determined by the Maharaja and may be altered by him from time to time]

17 The nomination of individuals to the office of Native Commissioner will be made by the Raja, but previous to such appointments taking effect he shall communicate what information he may have obtained regarding the age character and past employment of the individuals in question to the Superintendent, who shall withhold his concurrence in cases of notorious bad character or incapacity having regard however, as far as possible, in the mode of doing so, to the Raja's honour and dignity

Nomination of individuals made by Raja but confirmation to rest with Superintendent

18 No Native Commissioner appointed under this Regulation shall be removed from office without sufficient cause, and in all cases of removal the Raja shall act in concert with, and by the advice of, the Superintendent

Removal of Native Commissioner from office.

<sup>1</sup> The words under the Regulations in s 14 were repealed by the Benares Family Domains Act 1881 (14 of 1881) s 2 *infra*

<sup>2</sup> These words in s 16 were substituted for the words and figures 'a Native Commissioner shall be maintained by the Raja in each of the Pergunnahs referred to in Regulation XV, 1795 by Act 14 of 1881 s 10 *infra*

<sup>3</sup> These words were added to s 16 by *ibid*

Liability to  
criminal pro-  
secution

19. The Native Commissioners shall be liable to a criminal prosecution for corruption, extortion or other gross misdemeanour; and on conviction \* \* \*<sup>1</sup> shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case.

Powers and  
authority of  
Native Com-  
missioner

20. Persons invested with the powers of a Native Commissioner under this Regulation are authorized to receive, try and determine all suits preferred to them against any inhabitant of their respective jurisdictions, relative to land of every description, or the rent, revenue or produce thereof, situated therein \* \* \* \* \*

Rules for  
guidance of  
Native Com-  
missioners.

21. In receiving, trying and determining such cases the Native Commissioners shall be guided by the rules<sup>2</sup> [prescribed by the said Lieutenant-Governor under section 22 of this Regulation].

Power to  
make rules.

22. [The said Lieutenant-Governor may, from time to time, make<sup>3</sup> rules consistent with this Regulation—

(a) to regulate the procedure and powers of the Native Commissioners and to determine the cases in which, the mode in which, and the authority to or by which, the orders and decisions of such Commissioners shall be subject to appeal or revision; and

(b) to regulate, in matters not hereinbefore provided for, the administration of the Family Domains in so far as it is entrusted to the Maharaja.

Such rules shall, when published in the local Gazette, have the force of law: Provided that no such rule shall be so published until the opinion of the Maharaja thereon has been taken and considered by the Lieutenant-Governor.

In matters not otherwise provided for by the rules made under clause (a), the Code of Civil Procedure<sup>6</sup> shall apply.]

Procedure in  
case of doubt  
as to Judge's  
jurisdiction.

23.<sup>4</sup> [If, in any suit instituted or appeal presented under this Regulation in any Court, the Judge or presiding officer doubts whether he has jurisdiction, he may refer the matter to the Board of Revenue; and, on

<sup>1</sup> The words "before the Court of Circuit" in s. 19 were repealed by the Benares Family Domains Act, 1881 (14 of 1881). s. 2, *infra*.

<sup>2</sup> The words "provided the cause of action shall have arisen within the period of twelve years previously to the institution of suits" at the end of s. 20 were repealed by *ibid*.

<sup>3</sup> These words and figures in s. 21 were substituted for the words and figures "contained in Regulation XXIII, 1814, and in points not expressly provided for in that Regulation they shall observe as nearly as may be practicable the rules prescribed for the guidance of the Zila and City Courts, in the trial and decision of Civil suits" by Act 14 of 1881, s. 11, *infra*.

<sup>4</sup> The ss. 22 to 25 here printed were substituted for the original ss. 22 to 26 by Act 14 of 1881, s. 12, *infra*. For the original sections, see Clarke's edition of the Bengal Regulations published under the authority of the Court of Directors, Ed. 1854.

<sup>5</sup> For rules under s. 22, see U. P. Local Rules and Orders.

<sup>6</sup> See now Act 5 of 1908 in Genl. Acts, Vol. VI.

any such reference being made, the said Board may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.]

The order of the said Board on any such reference shall be final

<sup>1</sup>24. [Except as provided by or under this Regulation, or any other enactment for the time being in force,— Operation of general Acts

(a) the administration of the Family Domains, in so far as it is entrusted to the Maharaja, shall be regulated by the principles and spirit of the enactments for the time being in force in the North-Western Provinces, and

(b) the administration of the said Domains, in so far as it has not been so entrusted, shall be regulated by those enactments.]

<sup>2</sup>25. [In this Regulation, unless there is something repugnant in the subject or context,— Interpretation clause.

“Board of Revenue” means the Board of Revenue of the North Western Provinces, or such officer or officers as may hereafter be lawfully appointed to exercise, within the Province of Benares, the powers of such Board

“Regulations” includes Acts for the time being in force in the North-Western Provinces.]

## BENGAL REGULATION XVII of 1829 <sup>1</sup>

THE BENGAL SATI REGULATION, 1829

[APPLIES TO THE PROVINCE OF AGRA]

[4th December, 1829.]

A Regulation for declaring the practice of sati or of burning or burying alive the widows of Hindus, illegal, and punishable by the Criminal Courts

1. The practice of sati, or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty, on the

<sup>1</sup> See the footnote to s 22 *supra*

<sup>2</sup> Ben Reg 17 of 1829 was declared, by the Laws Extent Act 1874 (15 of 1874), s 7, General Acts Vol II, to be in force in the whole of the Province of Agra (then the North Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act 1874 (14 of 1874) General Acts, Vol II, to be in force in Kumaon and Garhwal in the scheduled portion of the Mirzapur District and in Jaunsar Bawar and it was extended, by notification under the same Act to the Tarai Parganas, see Vol III Appendix

Short title, the Bengal Sati Regulation 1829—see the Amending Act, 1897 (5 of 1897), General Acts, Vol IV

contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that, in many instances, acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Sati declared  
illegal and  
punishable.

2. The practice of sati, or burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Zamindars,  
etc., responsi-  
ble for imme-  
diate com-  
munication  
to police of  
intended  
sacrifice.

3. *First.*—All zamindars, taluqdars or other proprietors of land, whether malguzari or lakhiraj, all sadr farmers and under-renters of land of every description, all dependent taluqdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamindar or other description of persons above-noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Penalty in  
case of neg-  
lect.

Police how to  
act on receiv-  
ing intelli-  
gence of  
intended  
sacrifice.

*Second.*—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police-darogha shall either repair in person to the spot, or depute his muharrir or jamadar, accompanied by one or more barkandazes of the Hindu religion; and it shall be the duty of the police-officers to announce to the

persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it, and, in the event of the police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

*Third*—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

How to act when intelligence of sacrifice does not reach them until after it has taken place

4 & 5. [Procedure and powers of Magistrates and Courts] *Rep. Act XVII of 1862*

## BENGAL REGULATION V OF 1830<sup>1</sup>

THE BENGAL INDIGO CONTRACTS REGULATION, 1830

[APPLIES TO THE PROVINCE OF AGRA]

[9th June, 1830]

A Regulation \* \* \* relating to the Cultivation and Delivery of Indigo-plant

1. \* \* \* \* \*<sup>2</sup> Whereas it is desirable in certain cases to Preamble afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements, the following rules have been enacted,

<sup>1</sup> Es 1 and 5 of Ben Reg 5 of 1830 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 7 General Acts Vol II, to be in force in the whole of the Province of Agra (then the North Western Provinces) except as regards the Scheduled Districts. They have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts Vol II, to be in force in the scheduled portion of the Mirzapur

u, 1850—see the Amending Act, 1903

visions of Reg VI 1823, and for of contracts in the title, and the Amending Act, 1891 (12 of 1891),

contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that, in many instances, acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Sati declared  
illegal and  
punishable.

2. The practice of sati, or burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Zamindars,  
etc., responsi-  
ble for imme-  
diate com-  
munication  
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intended  
sacrifice.

3. *First.*—All zamindars, taluqdars or other proprietors of land, whether malguzari or lakhiraj, all sadr farmers and under-renters of land of every description, all dependent taluqdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamindar or other description of persons above-noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Penalty in  
case of neg-  
lect.

Police how to  
act on receiv-  
ing intelli-  
gence of  
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sacrifice.

*Second.*—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police-darogha shall either repair in person to the spot, or depute his muharrir or jamadar, accompanied by one or more barkandazes of the Hindu religion; and it shall be the duty of the police-officers to announce to the

persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it, and, in the event of the police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders

*Third*—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate

How to act when intelligence of sacrifice does not reach them until after it has taken place

4 & 5. [Procedure and powers of Magistrates and Courts] *Rep. Act XVII of 1862*

## BENGAL REGULATION V of 1830.<sup>1</sup>

THE BENGAL INDIGO CONTRACTS REGULATION, 1830

[APPLIES TO THE PROVINCE OF AGRA]

[9th June, 1830]

A Regulation \* \* \* relating to the Cultivation and Delivery of Indigo plant

1 \* \* \* \* \*<sup>2</sup> Whereas it is desirable in certain cases to Preamble afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements, the following rules have been enacted,

<sup>1</sup> Ss 1 and 5 of Ben Reg 5 of 1830 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 7, General Acts Vol II, to be in force in the whole of the Province of Agra (then the North Western Provinces) except as regards the Scheduled Districts. They have been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol II, to be in force in the scheduled portion of the Mirzapur District and in Jansar Bawar see Vol III Appendix

Short title the Bengal Indigo Contracts Regulation, 1830—see the Amending Act, 1903 (I of 1903) s 2 Bengal Code Vol I

<sup>2</sup> The words and figures 'for amending the provisions of Reg VI 1823, and for providing more effectually for enforcing the execution of contracts' in the title, and the first clause of the preamble were repealed by the Amending Act 1891 (12 of 1891), Genl Acts, Vol IV



to be in force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2. [*Persons inducing raiyats to break contracts liable to criminal prosecution.*] *Rep. Act VIII of 1868.*

3. [*Cultivators failing to fulfil engagements liable to imprisonment.*] *Rep. Act XVI of 1835.*

4. [*Punishment of persons damaging indigo plant.*] *Rep. Act III of 1857.*

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court;

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

*Second.*—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

## BENGAL REGULATION XI OF 1831.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[1st November, 1831.]

### A Regulation for vesting Tahsildars in certain cases with the Powers of Police-officers.

Preamble.

1. \* \* \* \* \*<sup>2</sup> Whereas with a view to improve the efficiency of the

<sup>1</sup> Ss. 1, 2, 5 and 6 of Ben. Reg. II of 1831 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. They have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and they were extended, by notification under the same Act, to the Tarai Parganas, see Vol. III, Appendix.

<sup>2</sup> The words and figures "Whereas by Regulation IV, 1821, the Collectors of land-revenue, or other persons exercising their powers are, in certain cases, authorized to perform the duties of Magistrates; and" were repealed by the Amending Act, 1891 (12 of 1891), Genl. Acts, Vol. IV.

Procedure by persons wishing to be released from their engagements

Procedure if proprietor objects to receive balance.

police, it is expedient that, in districts of the Ceded and Conquered Provinces<sup>1</sup> in which tahsildari establishments are maintained subject to the authority of the Collectors, *the Governor General in Council*<sup>2</sup> be empowered, by an order in Council, to vest the tahsildars with the powers at present exercised by daroghas of police, \* \* \* \*<sup>3</sup> the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the provinces aforesaid

2. It shall be competent to *the Governor General in Council*,<sup>2</sup> by an order in Council, to authorize any tahsildar or tahsildars to exercise the powers vested by the existing Regulations in daroghas of police, and to determine the local limits of their police-jurisdictions within which all officers of police, including the present thana and village police-establishments, shall be subordinate to, and subject to the control of, the tahsildar, in his capacity of chief police-thanadar<sup>4</sup>

Governor General may authorize tahsildar to exercise powers vested in police daroghas, etc

3. [*Daroghas to be designated Naib daroghas*] *Rep Act XVI of 1854*

4. [*Modification of Ben Reg XX of 1817*] *Rep Act XII of 1876*

5. The tahsildars who may be vested with the powers of daroghas under this Regulation are authorized to employ, when necessary, in aid of the regular police establishments, any chaprasis or other persons entertained on their fixed tahsildari establishments, and revenue-officers, when so employed, shall be guided in the discharge of their police-duties by all the rules now in force, or which may hereafter be enacted, for the guidance of the police officers

Tahsildars vested with powers of daroghas may employ chaprasis etc., on fixed tahsildari establishments

But the fixed thana establishments shall not be employed in the collection of the land revenues, or in other revenue-duties, except in cases of distraint for arrears of rent or revenue, or such other occasions as by the Regulations in force is now authorized

6. Whenever *the Governor General in Council*<sup>2</sup> shall see fit to carry into effect the arrangement herein authorized in any district or part of a district, a statement shall be drawn out specifying the number and extent of the several police and revenue-jurisdictions, the names and numbers of the officers attached to them, and the head-quarters or thanas and the out-posts of the several divisions;

Statement to be proclaimed in district where arrangement authorized by Regulation, is carried into effect

<sup>1</sup> Ben Reg 11 of 1831 was extended to Benares by Act 16 of 1854, s 3, *infra*

<sup>2</sup> These powers are now exercisable by the Lieutenant Governor of the United Provinces of Agra and Oudh, *see* Act 16 of 1854, s 3 *infra*, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra* The United Provinces of Agra and Oudh have now a Governor

<sup>3</sup> The words 'and whereas it is expedient to modify the existing Regulations regarding the removal of police officers' were repealed by the Amending Act, 1891 (12 of 1891), Genl Acts, Vol IV

<sup>4</sup> As to the subordination of daroghas of police to tahsildars, *see* Act 16 of 1854, s 2, *infra*

this statement shall be drawn out in English, Persian and the vernacular dialects, and suspended in a conspicuous place in the kachahri of the Collector and Magistrate at the sadr station, and shall be published by proclamation throughout the district.

7. [*Reductions in police-establishments.*] *Rep. Act XVI of 1854.*

8. [*Modification of Ben. Reg. XVII of 1816.*] *Rep. Act XVI of 1874.*

## BENGAL REGULATION IX OF 1833.<sup>1</sup>

THE BENGAL LAND-REVENUE (SETTLEMENT AND DEPUTY COLLECTORS) REGULATION, 1833.

[APPLIES TO THE PROVINCE OF AGRA.]

[9th September, 1833.]

A Regulation<sup>2</sup> \* \* \* \* for the more extensive Employment of Native Agency in the Revenue Department \* \* \* \*<sup>2</sup>

Preamble.

1. \* \* \* \*<sup>2</sup> It having been found expedient \* \* \* \*<sup>2</sup> that Natives of respectability should be employed in more important trusts connected with the revenue-administration, the following provisions have been enacted, to be in force from the date of their promulgation.

2 to 15. [*Modification of Ben. Reg. VII of 1822, etc.*] *Rep. in the Province of Agra by Act XIX of 1873.*

Appointment of Deputy Collectors.

16. It shall be competent to the [Local Government]<sup>3</sup> to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

17. [*Persons eligible to office, and how appointed.*] *Rep. Act X of 1914.*

<sup>1</sup> Ben. Reg. 9 of 1833 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, see Vol. III, Appendix.

Short title, the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833—see the Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I.

<sup>2</sup> The parts of the title and preamble which are here omitted refer to modifications of the Bengal Land-revenue Settlement Regulation, 1822, and to provisions regarding a more speedy decision of judicial matters by revenue-officers. They are obsolete in the Province of Agra, the sections of the Regulation dealing with them having been repealed by the N.-W. P. Land Revenue Act, 1873 (19 of 1873).

<sup>3</sup> Substituted for "Governor General in Council," by the Amending Act, 1903 (1 of 1903), s. 3, Bengal Code, Vol. I, and see also Act 19 of 1886, s. 1, *infra*.

18. [Monthly allowance how fixed, and susceptible of increase.]  
Rep Act X of 1914.

19. [Solemn declaration by Deputy Collectors ] Rep Act X of 1873.

20. The Deputy Collectors appointed under this Regulation are to be Subordina  
in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that Deputy Col  
functionary lectors

21. It will be at the discretion of the latter officer to employ them in Duties in  
settlement-duties under the provisions of Regulation VII, 1822,<sup>1</sup> in the which Col  
-superintendence of the Government khas mahals, and generally in the lectors may  
transaction of any other part of the duties of a Collector employ them

22. All proceedings held by a Deputy Collector appointed under this Their pro  
Regulation shall be recorded in his own name and on his own respons- ceedings how  
ibility, subject to the revision and control of the Collector, and appeal- recorded and  
able to the superior authorities in the usual course how appeal-  
able

23. Provided always, that the Collector is competent to resume the Collector may  
duties which he may have committed to the deputy, assigning his reasons resume duties  
for so doing for the information of the Commissioner committed  
to them

24. Provided also, that the Revenue Commissioners, whenever they Interference  
think proper, may interfere with any arrangements made by the Collec- by Commis  
tors for the employment of the deputies, or the distribution of business sioners with  
to be assigned to those functionaries, subject to the general control of arrangements  
vested in the <sup>2</sup> Board of Revenue or the Government, as the case may of Collectors  
be. for employ  
ment of  
deputies

25. [Rules regarding dismissal of Deputy Collectors ] Rep Act X  
of 1914

<sup>1</sup> Ben Reg 7 of 1822 so far as it relates to the Province of Agra, was repealed by the  
N W P Law, Revenue Act, 1873 (19 of 1873)

<sup>2</sup> The word " Sadr " in s 24 was repealed by the Amending Act, 1903 (1 of 1903),  
e 4



## PART II.

### LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH.

ACT No X of 1836.<sup>1</sup>

#### THE BENGAL INDIGO CONTRACTS ACT, 1836.

[APPLIES TO THE PROVINCE OF AGRA.]

[11th April, 1836.]

1. [Repeal of clause 3 of section 5 of Regulation VI of 1823.] Rep. Act XIV of 1870.

2. \* \* \* \*<sup>2</sup> Whenever the right to indigo-plant may be contested, and an order shall be passed, under the provisions of clause ninth, section 3, Regulation VI, 1823,<sup>3</sup> of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

3. \* \* \* \*<sup>2</sup> When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists, and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover from

Security to be given by person desiring to remove indigo plant ordered to be delivered to him.

Right of suit of person making advances for cultivation or delivery of indigo plant when breach of contract is induced by third person.

<sup>1</sup> Act 10 of 1836 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol II, to be in force in the whole of the Province of Agra (then the North-West Provinces) as been declared, s. 3 in force in the III, Appendix Act, 1903 (I of

1903), s. 2, Bengal Code, Vol I

<sup>2</sup> The words "And it is hereby enacted that" at the beginning of ss 2 and 3 were repealed by the Repealing Act, 1874 (15 of 1874)

<sup>3</sup> *Supra*

him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit:

Bar of suit for act done to recover debt or secure performance of lawful contract.

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt, or performance of a lawful contract.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

4. \* \* \* \*<sup>1</sup> The Court trying any suit instituted under the provisions of Regulation VI, 1823,<sup>2</sup> of the Bengal Code, or under the provisions of this Act, shall be authorized to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice; and, if the award be in favour of the defendant, to assign to the defendant, a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

5. [*Power to refer certain suits to a Principal Sadr Amin or Sadr Amin.*] *Rep. Act VIII of 1868.*

### ACT No. XVI OF 1854.<sup>3</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[28th July, 1854.]

An Act to amend Regulation XI of 1831<sup>4</sup> of the Bengal Code.

WHEREAS the provisions of section 3 and section 7 of Regulation XI, 1831,<sup>4</sup> have been found inconvenient; and whereas it is expedient that Regulation XI, 1831,<sup>4</sup> as amended by this Act, should be extended to the whole of the Province of Benares; It is enacted as follows:—

1. [*Repeal of ss. 3 and 7 of Bengal Regulation XI of 1831.*] *Rep. Act XIV of 1870.*

Darogas of police subject to tahsildars.

2. Wherever any tahsildar shall have police-jurisdiction under the provisions of section 2 of the said Regulation XI, 1831,<sup>4</sup> every daroga of police hereafter appointed within the local limits of the police-jurisdic-

<sup>1</sup> The words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> *Supra.*

<sup>3</sup> Act 16 of 1854 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, the Tarai Parganas, the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Vol. III, Appendix.

<sup>4</sup> *Supra.*

tion of such tahsildar shall be subordinate to, and subject to the control of, such tahsildar, in his capacity of chief Police thanadar

3 Regulation XI, 1831,<sup>1</sup> as amended by this Act shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor General in Council may be exercised by the Lieutenant Governor of the North-Western Provinces

Regulation XI 1831 as amended extended to Benares

## ACT No XII of 1856 \*

### THE CIVIL COURTS AMINS ACT 1856

[APPLIES TO THE PROVINCE OF AGRA ]

[9th May, 1856 ]

An Act to amend the Law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William

WHEREAS the law by which the Civil Courts are authorized to employ Amins upon local investigations is defective, and requires amendment,

\* \* \* \* It is enacted as follows —

1 [Repeal of Regulations ] *Rep Act XIV of 1870*

2 In each district, officers to be designated Civil Court Amins shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries

Appointment of Amins

The number of Amins to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council <sup>5</sup>

<sup>1</sup> *Supra*

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>3</sup> Act 12 of 1856 was declared by the Laws Local Extent Act 1874 (15 of 1874) s 7 General Acts Vol II to be in force in the whole of the Province of Agra (then the North Western Provinces) except as regards the Scheduled Districts. It has been declared by notification under the Scheduled Districts Act 1874 (14 of 1874) General Acts Vol II to be in force in the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Vol III, Appendix

Short title the Civil Courts Amins Act 1856—see the Amending Act, 1897 (5 of 1897) General Acts Vol IV

<sup>4</sup> In the preamble the words and whereas in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office it is no longer expedient that Moonsiffs should be employed in the attachment of any of the were repealed

<sup>5</sup> Section

Agra as if of the Governor of the Provinces (Agra and Oudh have now a Governor



Amins by whom appointed and to what Courts attached.

3. The Civil Court Amins shall be appointed by the Judge of the district, \* \* \* \* \*<sup>1</sup> and the Judge shall from time to time attach them to the several Courts of the district according as the state of business may require:

Provided that an Amin attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4. [*Declaration to be made by Civil Court Amins.*] Rep. Act X of 1873.

Duties of Amins.

5. \* \* \* \* \*<sup>1</sup> The Civil Court Amins may be employed in any of the following duties:—

- (i) in investigating or adjusting accounts in any suit or other judicial proceeding:
- (ii) in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding:
- (iii) in delivering over possession of lands, houses and other immovable property, in execution of decrees or orders of Court:
- (iv) in the sale of movable property, and of houses, gardens and other immovable property of the kind described<sup>2</sup> in section 3, Regulation VII, 1825:
- (v) in ascertaining the sufficiency of sureties and the means of persons suing *in formâ pauperis*.

6, 7. [*Procedure in referring accounts to Civil Court Amins; procedure in cases of local enquiry.*] Rep. Act X of 1861.

Expense of Amins how charged.

8. Whenever a Civil Court Amin may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Amin such fixed rate *per diem* as may be determined by the Sadr Court.

The amount shall be paid into Court by the party at whose instance or for whose benefit the Amin is deputed, and shall be added to the costs of suit.

<sup>1</sup> The words "with the sanction of the Court of the Sudder Dewanny Adalat" in s. 3, and the words "subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court" at the beginning of s. 5, were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>2</sup> That is "orchards, or small portions of lakhiraj land." Ben. Reg. 7 of 1825 was repealed by the Repealing Act, 1874 (16 of 1874), but not so as to affect the provisions referred to here, see s. 1, para. 2, of that Act.

9. When a Civil Court Amin shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Amin according to the time he may be employed.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the Amin is deputed, and shall be returned to the depositor if the sale takes place.

All sums paid for the employment of Amins, and all sums deducted from the proceeds of sales, shall be credited to Government.

10. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue-officer in investigations and adjustments of accounts connected with land paying revenue to Government. \* \* \* \* \*

## ACT No. XIII OF 1857.<sup>2</sup>

### THE OPIUM ACT, 1857.

APPLIES TO THE UNITED PROVINCES.]

[6th June, 1857.]

An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the

<sup>1</sup> In s 10 the words "under such general directions as may from time to time be prescribed by the Sudder Court" after the word "Government" were repealed by the Repealing Act, 1873 (12 of 1873), and the words "Wherever a Tubveeldar, a Naib Tuhseeldar or a Pesh" were repealed by the orders of a Civil section VII of this Act. The proceedings held by a

Amending Act, 1891 (12 of 1891), Genl Acts, Vol IV

<sup>2</sup> SHORT TITLE.—"The Opium Act, 1857."—See Amending Act, 1903 (I of 1903), Sch I, Bengal Code, Vol I

The Act has been declared, by the Laws Local Extent Act, 1874 (XV of 1874), s 6, General Acts, Vol II, to be in force in the whole of the Province of Agra (then known as the North Western Provinces), except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s 3, General Acts, Vol II, to be in force in Kumaon and Garhwal and the scheduled portion of the Mirzapur District, and it was extended, by notification under the same Act, to the Tara Parganas—see Vol III, Appendix

The Oudh Laws Act, 1876 (XVIII of 1876), s 3 (c), *infra*, declared it to be one of the laws to be administered by the Courts in Oudh

The Act ceases to be in force in districts in respect of which an order is published under s 31, *infra*

As to the continuance of orders issued and regulations made by the Board of Revenue, Calcutta and the ratification of orders issued by the Board of Revenue, United Provinces, see ss 3 and 4 of Act I of 1911, *infra*

When employed to sell property deduction from proceeds

Expenses, no sale takes place.

Power of Civil Courts North Western Provinces to employ Revenue officers.

Presidency of Fort William in Bengal<sup>1</sup> [and the territories under the administration of the <sup>2</sup>Chief Commissioner of Oudh].

Preamble.

WHEREAS the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed;

and whereas it is also expedient \* \* \* <sup>3</sup> that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended;

It is enacted as follows:—

1. [*Laws repealed.*] *Rep. Act XIV of 1870.*

2. [*Prohibition of poppy cultivation and opium manufacture.*] *Rep. Act I of 1878.*

Officers entrusted with superintendence of provision of opium.

3. The superintendence of the provision of opium for Government shall be entrusted to Agents, or other officers <sup>4</sup>[being covenanted servants of the Company], duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue <sup>5</sup>[of the United Provinces of Agra and Oudh].

Assistants to Agents.

The Agents, or other officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose.

Collector *ex-officio* Deputy Agent.

The Collector of the District shall ordinarily, and unless Government shall otherwise direct, be *ex-officio* Deputy Agent; and the relative duties

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OTHER ENACTMENTS.—For the general law as to opium, see the Opium Act, 1878 (1 of 1878), General Acts, Vol. II.

As to the levy of customs duty on opium, see the Sea Customs Act, 1878 (8 of 1878), ss. 20 (b) and 50 (d), Genl. Acts, Vol. II, and the Indian Tariff Act, 1894 (8 of 1894), Genl. Acts, Vol. IV.

As to securing the attendance of officers of the Opium Department before Criminal Courts, see the Bengal Police Regulation, 1817 (20 of 1817), s. 29, *supra*.

As to the suppression, by the police, of the illicit cultivation, manufacture, sale, purchase, importation, transport and possession of opium, see *ibid*.

<sup>1</sup> These words were inserted by Act 18 of 1876, Sch. II, *infra*.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> The words "that certain obsolete Regulations relating to the provision of opium should be formally repealed and" were repealed by the Amending Act, 1891 (12 of 1891), Genl. Acts, Vol. IV.

<sup>4</sup> The words "being covenanted servants of the Company" in s. 3 are repealed in Oudh, see Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*.

<sup>5</sup> These words were substituted by s. 2 of the Opium (Amendment) Act, 1911 (1 of 1911), *infra*.

and powers of the Deputy Agents and Sub deputy Agents shall be from time to time regulated by the said Board with the sanction of Government

4. The opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity except as otherwise herein provided.

Officers amenable to Civil Courts,

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself

Bar of suit without previous application to Agent for redress

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court

5 The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue

Sanction to suit by Agent

6. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board may in certain cases appoint officer to conduct or defend suits

7. The Board of Revenue, with the sanction of Government shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government

Board to fix limits of cultivation and price to be paid to cultivators

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced

The price shall be fixed at a certain sum per seer of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue for opium of a consistence below the standard

8. The Sub deputy Agents, or other officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators, who may choose to engage to cultivate the poppy and to deliver the produce to the officers of Government at the established rates

Issue of licenses

Every license shall specify the number of bighas which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct

What to be specified in license

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

Cultivator to have option to engage to cultivate or not. Officers compelling cultivator to engage liable to be dismissed.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Sub-deputy Agent may withhold license to cultivate.

It shall be at the option of the Sub-deputy Agent, or other officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator receiving advances and not cultivating full quantity of land. Adjudication of penalty.

10. If it shall be found that any cultivator, who has received advances from Government, has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of the opium produced.

11. All opium, the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district officers, or shall be brought by them to the sadr factory, as the Agent may direct.

Opium not liable to distress or attachment. Value thereof may be attached.

And no such opium shall be liable to be distrained or attached by a zemindar or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district officer under the rules in force for such attachments.

Opium to be weighed and classified by Sub-deputy Agent.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district officer shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.

Proceeding where cultivator is

Any cultivator, who may be dissatisfied with the classification of the district officer, shall be at liberty either to take his opium to the sadr

factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen

dissatisfied  
with classification.

13. All opium forwarded by the district officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue, and the quality and consistence of the opium, and the deductions from, or additions (if any) to, the standard price to be made in accordance with the said rules, shall be determined by the result of such examination

Weighing  
and examination  
at sadr  
factory

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court

14. When opium delivered by a cultivator, either to a district officer, or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator

Confiscation  
of adulterated  
opium

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated, and the order of the Agent shall be final, and not open to question in any Court

Adjudication  
of confiscation

15. The weights and scales made use of in the sadr factories, and at the district kothis, shall be provided by the Board of Revenue

Weights and  
scales

Every district officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district and shall report the result of such examination to the Agent

Examination  
thereof

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate

It shall be the duty of all officers, who may superintend the weighing of opium, to see that the opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited

16. The accounts of the cultivators shall be adjusted annually by the district officers as soon after the conclusion of the weighing and examination as possible, and any balance that may remain due from any cultivator, or from any mahto or intermediate manager, may be recovered by the district officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khas may

Adjustment  
of cultivators'  
accounts  
and recovery  
of balance  
by distress

be distrained and sold by the Collector for the recovery of an arrear of rent or Revenue.

Sanction to  
issue of  
warrant.

Penalty on  
officer taking  
bribes.

Provided that no warrant of distress and sale shall be issued by any district officer without the sanction of the Agent previously obtained.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by  
land-holder  
from raiyat  
recoverable,  
together  
with  
penalty, in  
suit before  
Collector.

18. If any zemindar, or other proprietor of land or any farmer of land, shall exact from any raiyat, on account of his poppy land, any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty or treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for  
embezzle-  
ment  
of opium by  
cultivator.

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees, if the amount of the said penalty be less than that sum; and the opium, if found, shall be liable to confiscation.

Penalty for  
illegal  
purchase of  
opium from  
cultivators;

and for  
illegal con-  
nivance at  
embezzle-  
ment by  
Opium  
Officer.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium,

shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer for all such opium in excess of that weight;

and the opium, if found, shall be liable to confiscation.

Penalty for  
unlicensed  
cultivation.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and

any person who shall in any way cause, encourage, or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bighas, in which case the fine may be at the rate of twenty five rupees per bigha, and the poppy plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty two rupees per bigha of land illegally cultivated.

22 All proprietors, farmers, tahsildars, gumashtas, and other managers of land, shall give immediate information to the police or abkari darogas, or opium gumashtas, or to the Magistrates, Collectors, or officers in charge of the abkari mahal, or to the Agents, their deputies, or sub deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them, and every proprietor, farmer, tahsildar, gumashta, or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

23 All police and abkari darogas, and opium gumashtas, and all native officers of Government of whatever description, and all chaukidars, patis, and other village police officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy, and such authority shall transmit the information to the Sub-deputy Agent or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government or to the Collector or officer in charge of the abkari mahal, if in a district where the poppy is not so cultivated.

Every police or abkari daroga, opium gumashta native officer, chaukidar, or other police officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

24 Whenever a police or abkari daroga or opium gumashta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy he shall immediately proceed to the spot and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate, and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Duty of land holders and others to give information of illegal cultivation

Duty of police and other officers to give information of illegal cultivation

Police or abkari daroga how to proceed in case of illegal cultivation



**Land-holders, etc., may attach in cases of illegal cultivation.** 25. Proprietors, farmers, tahsildars, gumáshtas, and other managers of land, shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or abkári daroga or opium gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

**Adjudication of penalties.** 26. Except as otherwise herein provided, all fines, penalties, and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the abkári mahál:

**Limitation.** Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

**Imprisonment in default of payment of fine.** 27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

**Punishment for repetition of offences.** 28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

**Place of imprisonment under section 28.** 29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police officer convicted of an offence under section 17, 20, or 23, shall be imprisoned in the civil jail.

**Disposal of fines and forfeitures.** 30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20, and 21 of this Act, together with a reward of one rupee eight annas for each seer of opium confiscated and declared by the Civil Surgeon to be fit for use, shall upon adjudication of the case be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of opium confiscated as aforesaid, shall be given to the informer.

If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

31 The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub Deputy Opium Agent or other officer of Government, and when such order has been published all the provisions of this Act shall cease to have effect in such district or districts

Governor General may allow free cultivation of poppy and manufacture of opium in any district

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it, and when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules and any person who shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act, and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person

Power to prescribe rules for delivery to Government officers

### ACT No XXVI of 1866 <sup>1</sup>

## THE OUDH SUB SETTLEMENT ACT, 1866

[APPLIES TO THE PROVINCE OF OUDH ]

[12th October, 1866 ]

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that province

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration, and whereas it is expedient that such rules should have the force of law it is hereby enacted as follows —

Preamble

1 The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub settlement of lands, villages or sub divisions

Rules as to sub settlements contained in schedule to have force of law

<sup>1</sup> The Bill which became Act 26 of 1866 was introduced and passed at a single sitting of the Governor General's Council. For Proceedings relating thereto at this meeting of the Council see Gazette of India, 1866 Supplement p 430. For correspondence relating to the rules which were legalized by this Act see *ib id* pp 385 to 396

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

thereof, which they held under taluqdars on or before the 13th day of February, 1856, and for determining the amounts payable to the taluqdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the Gazette of India for September 1st, 1866, and which are republished in the Schedule to this Act, are hereby declared to have the force of law.

2. [*Repeal of inconsistent enactments.*] *Rep. Act XIV of 1870.*

Short title.

3. This Act may be called the Oudh Sub-Settlement Act, 1866.

## SCHEDULE.

### *Rules regarding Sub-Settlements and other subordinate Rights of Property in Oudh.*

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *sir* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the taluqdar, held such lands under contract (*pakka*) with some degree of continuousness since the village came into the taluqa.

3. The words "some degree of continuousness" will be interpreted as follows:—

If the village was included in the taluqa before the thirteenth February, 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the taluqa after the thirteenth February, 1836, but before the thirteenth February 1844, the lease must have been held for not less than one year more than half the period between the time in

which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the taluqa after the thirteenth February, 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the taluqdar was, for any period dispossessed of the village and the under proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under proprietor.

Provided also that nothing in this rule will apply to any village which was included for the first time in the taluqa after the thirteenth February, 1844, and in which the under proprietor has held no lease for any period under the taluqdar.

4 If an under proprietor, who is entitled to a sub settlement, can show by documentary evidence that he had entered into an agreement with the taluqdar that he should hold in perpetuity, the lease of the lands to the sub settlement of which he is entitled, at a uniform (*istimrari*) rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future readjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under proprietor and the taluqdar should be altered, the amount payable by the under proprietor to the taluqdar will be liable to re adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5 If an under proprietor, entitled to sub settlement, can show by documentary evidence that he had entered into an agreement with the taluqdar that he should hold the lease of the lands to the sub settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the taluqdar or other charges and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the taluqdar of the Government demand for the time being, with the addition of ten per cent in lieu of taluqdari dues and other charges.

6 If an under proprietor entitled to sub settlement, has held the lease of the lands to the sub settlement of which he is entitled, under an agreement that he shall pay to the taluqdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under proprietor will in

future continue to be liable for the payment to the taluqdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in rules 4 to 6, the amount payable by the under-proprietor to the taluqdar will be determined according to the following principles:—

*1st.*—The payments made by the under-proprietor to the taluqdar before annexation will form the standard by which the present payments are to be regulated;

*2nd.*—In no case can the amount payable by the under-proprietor to the taluqdar, during the currency of the settlement, exceed the gross rental of the village, less ten per cent. in *sir* or *nankar* land;

*3rd.*—In no case can the amount payable during the currency of the settlement by the under-proprietor to the taluqdar be less than the amount of the revised Government demand, with the addition of ten per cent.;

*4th.*—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the taluqdar the same amount which he paid before annexation;

*5th.*—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the taluqdar will be adjusted according to the following rule, namely, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

*6th.*—In determining the amount payable by the under-proprietor to the taluqdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the taluqdar, or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case the under-proprietor will retain all *sir* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the taluqdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental.

The under-proprietor will possess, in the whole of such land a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the taluqdar. In this case the cesses on account of roads, schools, etc., amounting to two and-a-half per cent. on the Government demand, will be payable by the taluqdar while the village-expenses, including the allowances to the patwari and chaukidar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *sir* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a purwa or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such purwa or hamlet, he has held therein, within the period of limitation, possession of *sir* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the taluqdar. The amount of such payment will be determined according to the rules for determining the amount of the payment due by other under-proprietors on their *sir* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in jagirs will be treated according to the same rules which are applicable to similar claims in taluqas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision; but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

—

J. STRACHEY,  
*Chief Commissioner of Oudh.*

SIMLA;

*The 20th August, 1866.*

ACT No. I of 1867.<sup>1</sup>

## THE GANGES TOLLS ACT, 1867.

[APPLIES TO THE PROVINCE OF AGRA.]

[18th January, 1867.]

An Act to authorize the levy of Tolls for the improvement of the navigation of the Ganges.

Preamble.

WHEREAS it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the river Ganges, to be applied for the improvement of the navigation of the said river between Allahabad and Dinapur; It is hereby enacted as follows:—

Interpretation clause.

1. In construing this Act—

“Lieutenant-Governor” shall mean the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William;

“Master” shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

“Magistrate” shall include any person exercising any of the powers of a Magistrate.

Toll not exceeding twelve annas per one hundred maunds chargeable on vessels ascending or descending Ganges.

2. A toll not exceeding twelve annas per hundred maunds shall be payable, at such place or at one of such places subject to the government of the <sup>2</sup>Lieutenant-Governor as he shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards which shall pass up or down the Ganges by such place or any one of such places:

Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

Rules for measurement of burden.

3. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port-dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta.

The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act; (that is to say) half the length in feet at the water-level of the boat shall be multiplied by the greatest width in feet

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1866, p. 1129; and for Proceedings in Council relating thereto, see *ibid*, Supplement, p. 651, and *ibid*, 1867, Supplement, p. 48.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

at the water level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds

Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected

4 The funds raised by the tolls payable under this Act shall be applicable, at the discretion of the Lieutenant Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapur Application of funds raised under Act

5 The Lieutenant Governor may appoint any person he may think fit to collect the tolls payable under this Act at any place or places under his government, and may from time to time remove any such person and appoint another person in his stead Appointment of Collector of tolls

6 Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdu languages, and shall also be published thrice in the local Gazette List of tolls

7 Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf Person to collect tolls and receiver to give voucher for same

The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat and the voyage in respect of which such toll shall be paid

8 If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat and any furniture thereof, and to detain the same, and such person shall within twenty four hours of such seizure and detention report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made or other public officer duly authorized by the Lieutenant Governor in this behalf Payment of tolls how enforced

On receipt of such report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat, and any furniture thereof

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale

If the toll and also any expenses occasioned by non payment be not paid or sufficient cause for non payment be not shown at or before the time of sale, to the Collector, Deputy Collector or other officer as afore



said, such officer shall sell the steamer, flat or boat, and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat or boat.

9. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto.

10. Upon the refusal or neglect of any owner or master of any steamer, flat or boat liable to pay toll under this Act to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act;

or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat, a notice in writing specifying what, in his judgment, is the burden of the steamer, flat or boat; and the burden specified in such notice shall be deemed to be the real burden of the steamer, flat or boat, and be treated as such for all the purposes of this Act, until the owner or master of the steamer, flat or boat shall give sufficient proof of the true burden thereof, as ascertained under section 3 of this Act.

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon, or in the course of, or at the termination of, any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound.

If any master of any such steamer, flat or boat shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding 1 rupees.

12. If any dispute shall arise between the owner of any steamer, flat or boat to the payment of toll, and the person authorized to collect the toll, as to the burden of any steamer, flat or boat, or as to the amount of any charges on account

Power to sue for recovery of tolls.

Ascertainment by toll-collector of burden of steamer, flat or boat.

Evading payment of tolls.

Magistrate to decide disputes respecting tolls.

er, the

dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

13. The Lieutenant-Governor may, from time to time as he may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified. Lieutenant-Governor may alter tolls.

He may also prescribe a mode or modes of measurement for burden differing from those prescribed in section 3 of this Act: Provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

14. Whenever, in the opinion of such officer as the Lieutenant-Governor shall appoint in this behalf, the construction of any bandhel or other contrivance for fishing or for any other purpose, in any part of the Ganges between Allahabad and Dinapur, is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bandhel or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bandhel or other contrivance. Power to prohibit construction of bandhels.

15. Any person who shall wilfully disobey any prohibition under the last preceding section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges between Allahabad and Dinapur, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage. Penalty for causing obstruction to navigation.

16. It shall be lawful for the Lieutenant-Governor from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges between Allahabad and Dinapur, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement. Rules relating to navigation.

Such rules may contain directions for any of the following amongst other matters:—

- (a) for fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any

<sup>1</sup> For navigation rules under s. 16, see U. P. Local Rules and Orders.



- 11 Witnesses indemnified
- 12 [*Repealed*]
- 13 Gaming and setting birds and animals to fight in public streets  
Destruction of instruments of gaming found in public streets
- 13A Exemption of games of mere skill
- 14 Offences by whom triable
- 15 Penalty for subsequent offence
- 16 Portion of fine may be paid to informer.
- 17 Recovery and application of fines
- 18 [*Repealed*]

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ACT No III OF 1867 <sup>1</sup>

THE PUBLIC GAMBLING ACT, 1867.

[APPLIES TO THE UNITED PROVINCES]

[25th January, 1867]

An Act to provide for the punishment of public gambling and the keeping of common gaming houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, [and the Central Provinces]

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming houses in the territories respectively subject to the Governments of the Lieutenant Governor of the North Western Provinces of the Presidency of Fort William [and]<sup>3</sup> of the Lieutenant-Governor of the Punjab, and to the administrations of the 'Chief Commissioner of Oudh, <sup>4</sup>[and of the Chief Commissioner of the Central Provinces], It is hereby enacted as follows —

<sup>1</sup> For Statute of the Select Committee, see *ibid* 1866 Short title General Acts, of 1897),

Act 3 of 1867 has been declared by notification under the Scheduled Districts Act 1874 (14 of 1874), to be in force in the Tarai Parganas, see Vol III, Appendix

<sup>2</sup> The words "and the Central Provinces" were substituted for the words "the Central Provinces and British Burma" by the Amending Act 1903 (1 of 1903), General Acts, Vol V

<sup>3</sup> The word "and" was inserted by the Amending Act, 1891 (12 of 1891) Sch II, General Acts, Vol IV

<sup>4</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>5</sup> Substituted for the words "of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma" by the Amending Act, 1903 (1 of 1903),

<sup>6</sup> 3 General Acts Vol V

Interpreta-  
tion-clause.  
"Lieutenant-  
Governor."

1. In this Act—

<sup>1</sup>["Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be:]

"Chief  
Commis-  
sioner."

<sup>1</sup>["Chief Commissioner" means the Chief Commissioner of the Central Provinces, or of the North-West Frontier Province, as the case may be:]

"Gaming."

<sup>2</sup>["Gaming" includes wagering or betting, except wagering or betting upon a horse-race, when such wagering or betting takes place—

(a) on the day on which such race is to be run, and

(b) in an enclosure which the stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose,

but does not include a lottery:]

"Instru-  
ments of  
gaming."

<sup>2</sup>["Instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming:]

"Common  
gaming-  
house."

<sup>2</sup>["Common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or vessel, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owing, occupying, using or keeping such house, room, tent, enclosure, space, vehicle, vessel or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, vessel, place or instruments or otherwise howsoever.]

[*Number Gender.*] *Rep. by Act XVII of 1914, s. 3 and Second Schedule.*

Power  
to extend  
Act

2. <sup>3</sup>[Sections 13 and 17 of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor, whenever he may think fit, to <sup>4</sup>extend, by a notification to be published in the official Gazette, all or any of the remaining sections of this Act to any area within the United Provinces.]

<sup>1</sup> Substituted for the original definitions by the Amending Act, 1903 (1 of 1903), General Acts, Vol. V.

<sup>2</sup> These definitions were substituted for the definition "common gaming-house" by s. 2 of the United Provinces Public Gambling (Amendment) Act, 1917 (U. P. Act 1 of 1917), *infra*, Vol. III.

<sup>3</sup> This paragraph was substituted for the original paragraph by s. 2 of U. P. Act 5 of 1919, *infra*, Vol. III.

<sup>4</sup> For list of towns to which the Act has been extended under s. 2, see U. P. Local Rules and Orders.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section, so extended, shall cease to have effect in such territories

3. Whoever, being the owner or occupier, or having the use, of any <sup>Penalty for</sup> <sup>owning or</sup> <sup>keeping, or</sup> <sup>having</sup> <sup>charge of</sup> <sup>a gaming</sup> <sup>house.</sup> <sup>house, room, tent, walled enclosure, space, vehicle, vessel or place],</sup> situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming house, and

whoever, being the owner or occupier of any such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place,] as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming house, and

whoever has the care or management of, or in any manner assists in conducting, the business of any <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place,] as aforesaid, opened, occupied, used or kept for the purpose aforesaid, and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place],

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description<sup>2</sup> as defined in the Indian Penal Code, for any term not exceeding three months<sup>3</sup>

4. Whoever is found in any such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place] playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,<sup>2</sup> as defined in the Indian Penal Code, for any term not exceeding one month,<sup>3</sup>

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming

5. If the Magistrate of a district,<sup>4</sup> or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police,

Power to enter and search  
authorise Police to

<sup>1</sup> These words were substituted for the words house walled enclosure, room or place by s 3 of the United Provinces Public Gambling (Amending) Act, 1917 (U P Act 1 of 1917) *infra*, Vol III

<sup>2</sup> See s 53 of Act 45 of 1860, Genl Acts Vol I

<sup>3</sup> As to enhanced punishment for a second conviction of an offence under s 3 or s 4, see s 15 of this Act

<sup>4</sup> Read District Magistrate and Magistrate of the first class, respectively, see Code of Criminal Procedure, 1898 (Act 5 of 1898), s 3, Genl Acts, Vol V

upon credible information, and after such enquiry as he may think necessary, has reason to believe that any <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place,] is used as a common gaming-house,

he may either himself enter, or, by his warrant, authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint<sup>2</sup> in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place];

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place], which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming<sup>3</sup> are found in any <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place] entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place] is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any

<sup>1</sup> See first footnote on preceding page.

<sup>2</sup> For notification under s. 5 empowering Inspectors of Police and all officers in charge of police-stations not below the rank of Sub-Inspector to exercise the power here described, see the U. P. Local Rules and Orders.

<sup>3</sup> "Cowries" are not "instruments of gaming."—*Queen-Empress v. Bharsami*, I. L. R. 18 All. 23.

Magistrate, on being required by such officer or Magistrate to give his name and address shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8 On conviction of any person for keeping or using any such common gaming house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled

On conviction for keeping a gaming house, instruments of gaming to be destroyed

9 It shall not be necessary, in order to convict any person of keeping a common gaming house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake

Proof of playing for stakes

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place] entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place], or touching any act done for the purpose of preventing obstructing or delaying the entry into such <sup>1</sup>[house, room, tent, walled enclosure, space, vehicle, vessel or place] or any part thereof, of any Magistrate or officer authorized as aforesaid

Magistrate may require any person apprehended to be sworn and give evidence

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such

<sup>1</sup> See first footnote to s. 3, *supra*



question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.<sup>1</sup>

XL

Witnesses  
indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

12. [Act not to apply to certain games.] *Rep. U. P. Act 1 of 1917, s. 4.*

Gaming  
and setting  
birds and  
animals  
to fight  
in public  
streets.

13. A Police-officer may apprehend without warrant—

any person found <sup>2</sup>[gaming] in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such persons when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction  
of instru-  
ments of  
gaming  
found in  
public  
streets.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

Exemption  
of games of  
mere skill.

<sup>3</sup>[13A. Nothing in this Act shall apply to any game of mere skill wherever played.]

Offences  
by whom  
triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> The word "gaming" was substituted for the words "playing for money or other valuable thing with cards, dice, counters or other instruments of gaming" by s. 5 of the Public Gambling (Amendment) Act, 1917 (U. P. Act 1 of 1917), *infra*, Vol. III.

<sup>3</sup> This section was inserted by s. 6 of *ibid.*

But such Magistrate shall be restrained within the limits of his jurisdiction under the <sup>1</sup>Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict

15 Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description Penalty for subsequent offence

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year

16 The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer Port on fine may be paid to informer

17 All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the <sup>2</sup>Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied<sup>3</sup> as the Lieutenant Governor or Chief Commissioner, as the case may be, shall, from time to time direct Recovery and application of fines

18 [*Offences under this Act to be "offences" within meaning of the Indian Penal Code*] *Rep Act XVI of 1874, section 1, and Schedule, Part I*

## ACT No XXIV OF 1868 <sup>4</sup>

[APPLIES TO THE PROVINCE OF AGRA ]

[1st October, 1868 ]

### An Act to prohibit the practice of inoculation in Kumaon and Garhwal

WHEREAS it is expedient to prohibit the practice of inoculation with the small pox in the districts of Kumaon and Garhwal, It is hereby enacted as follows —

<sup>1</sup> See now the Code of Criminal Procedure 1893 (Act 5 of 1893) Genl Acts Vol V

<sup>2</sup> See now ss 386 387 and 389 of *ibid*

<sup>3</sup> For notifications as to cred ing such fines to Municipal Funds see the U P Local Rules and Orders

<sup>4</sup> For Statement of Objects and Reasons see Gazette of India 1868 p 1042 for Proceedings in Council see *ibid* Supplement pp 673 683 and 931

Penalty for  
inoculating.

1. Whoever produces or attempts to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty on  
inoculated  
person enter-  
ing place to  
which Act  
extends

2. If any person having been inoculated with the small-pox in a place to which this Act does not extend shall afterwards enter any place to which this Act extends, before the date<sup>1</sup> of forty days from the date of such inoculation or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Reward to  
informer.

3. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Extent of  
Act.

4. This Act<sup>2</sup> extends only to the Districts of Kumaon and Garhwal.

## THE OUDH ESTATES ACT, 1869.

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<sup>1</sup> *Sic.* Read "expiry."

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ACT No. I OF 1869.<sup>1</sup>

THE OUDH ESTATES ACT, 1869.

[APPLIES TO THE PROVINCE OF OUDH.]

[12th January, 1869.]

An Act to define the rights of Taluqdars and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble. WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain taluqdars and others; and whereas doubts may arise as to the nature of the rights of the said taluqdars and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1867, p. 1134; for Proceedings in Council, see *ibid*, Supplement, pp. 614 and 652; and *ibid*, 1869, Supplement, p. 60.

provide for such other matters connected therewith as are hereinafter mentioned, It is hereby enacted as follows —

### 1—Preliminary

1. This Act may be cited as the Oudh Estates Act, 1869, and shall extend only to the estates hereinafter referred to

Short title  
Extent of  
Act

2 In this Act, unless there be something repugnant in the subject or context,—

Interpreta-  
tion clause

<sup>1</sup>["transfer," with its grammatical variations and cognate expressions, means to make an alienation "inter vivos," whether before or after the commencement of this Act],

Transfer

"will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death,

Will

"codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions, it is considered as forming an additional part of the will,

Codicil

<sup>1</sup>["sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark"<sup>2</sup> with its grammatical variations and cognate expressions],

Sign

<sup>3</sup>["attest," with its grammatical variations, when used with reference to any instrument other than a will, means to sign such instrument as a witness in the presence of the executant after having seen the executant sign the same or after having received from the executant a personal acknowledgment of his signature to the same,

Attest

provided that, where attestation by more than one witness is required, it shall not be necessary that more than one of such witnesses should be present at the same time,

provided also that no particular form of attestation shall be required,]

<sup>4</sup>["registered" means—

(a) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with Registrar according to the law for the time being in force relating to the deposit of wills, and

Registered

(b) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances,]

<sup>1</sup> These definitions were substituted for the original ones by s 2 (f) of the Oudh as to the extent

<sup>4</sup> This definition of registered was substituted for the original definition by s 1 of Act 10 of 1885 *infra* subject to the saving in s 2 of that Act which is now probably spent Cf the definition in s 3 (45) of the General Clauses Act, 1897 (10 of 1897), Genl Acts, Vol IV

- Minor. "minor" means any person who shall not have completed the age of eighteen years; and "minority" means the status of such person;
- Taluqdar. "talukdar" means any person whose name is entered in the first of the lists mentioned in section 8;
- Grantee. <sup>1</sup>["grantee" means any person whose name is entered in the fifth or sixth of the lists mentioned in section 8];
- Estate. <sup>1</sup>["estate" means—
- (a) the taluqa or immoveable property acquired or held by a taluqdar or grantee in the manner mentioned in section 3, section 4 or section 5, and
  - (b) the other immoveable property situated in the United Provinces, in which a taluqdar or grantee or his heir or legatee or a transferee referred to in section 14 has a separate, permanent, heritable and transferable right, and in respect of which he has made a declaration in accordance with the provisions of section 32A of this Act;]
- Heir. <sup>2</sup>["heir" means a person who has inherited or inherits otherwise than as a widow or a mother, an estate or portion of an estate whether before or after the commencement of this Act];
- Legatee. <sup>1</sup>["legatee" means a person to whom there has been or is bequeathed an estate or portion of an estate whether before or after the commencement of this Act;
- Explanation.*—The words "heir" and "legatee" used with reference to a taluqdar or grantee or a person whose name has been inserted in the list referred to in section 31A, sub-section (3), are not restricted to the immediate heirs and legatees of such taluqdar, grantee or person.]
- Words expressing relationship. Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

## II.—Rights and Liabilities of Taluqdars and Grantees.

Taluqdars to have heritable and transferable rights in their estates, 3. Every taluqdar with whom a summary settlement of the Government revenue was made between the 1st day of April, 1858, and the 10th day of October, 1859, or to whom, before the passing of this Act and subsequently to the 1st day of April, 1858, a taluqdari sanad has been granted,

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such taluqdar when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the Province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

<sup>1</sup> See first footnote to s. 2, *supra*.

subject to all the conditions affecting the taluqdar contained in the orders passed by the Governor General of India on the tenth and 19th days of October, 1859, and re-published in the First Schedule hereto annexed, and subject also to all the conditions <sup>subject to certain con-</sup> [other than those relating to succession] contained in the sanad under which the estate is held

1895 <sup>1</sup>[*Explanation* —Notwithstanding anything contained in the Crown Grants Act, 1895,<sup>2</sup> the conditions of the sanad relating to succession, in so far as they are inconsistent with the provisions of this Act, shall not apply to the estate ]

4. Every person whose lands the proclamation issued in Oudh in the month of March, 1858, by order of the Governor General of India specially exempted from confiscation, and whose names are contained in the Second Schedule hereto annexed, shall be deemed to possess, in the lands for which such person executed a kabuliya between the 1st day of April, 1858, and the 1st day of April, 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section 3, and he shall be deemed to hold the same subject to all the conditions affecting taluqdars which are referred to in the said section, and to be a taluqdar for all the purposes of this Act <sup>Rights and liabilities of persons named in second schedule</sup>

5. Every grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a taluqdar possesses and is subject to, under section 3, in respect of his estate <sup>Grantees' rights and liabilities</sup>

6. Nothing in sections 3, 4 and 5, or in the said orders, or in any sanad shall be deemed to bar a suit for redemption— <sup>Saving of certain redemption suits.</sup>

- (a) where the instrument of mortgage was executed on or after the 13th day of February, 1844, and fixed no term within which the property comprised therein might be redeemed, or
- (b) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the 13th day of February, 1860

7. If a taluqdar or grantee, or any heir or legatee of a taluqdar or grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the district wherein such estate or the greater part thereof is situate, and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under <sup>Heirlooms.</sup>

<sup>1</sup> These words were inserted and this Explanation was added by s 3 of the Oudh Estates (Amendment) Act, 1910 (U P Act 3 of 1910), *infra*, Vol II, and as to the extent to which these amendments shall operate retrospectively, see s 21 of *ibid*

<sup>2</sup> Genl Acts Vol IV



or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee.

### III.—Lists of Taluqdars and Grantees.

Preparation  
of lists of  
taluqdars  
and grantees.

8. Within six months after the passing of this Act, the <sup>1</sup>Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor General of India in Council, shall cause to be prepared six lists, namely:—

*first*, a list of all persons who are to be considered taluqdars<sup>2</sup> within the meaning of this Act;

*second*, a list of the taluqdars whose estates, according to the custom of the family on and before the 13th day of February, 1856, ordinarily devolved upon a single heir;

*third*, a list of the taluqdars, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

*fourth*, a list of the taluqdars to whom the provisions of section 23 are applicable;

*fifth*, a list of the grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

*sixth*, a list of the grantees to whom the provisions of section 23 are applicable.

Publication  
of lists.

9. When the lists mentioned in section 8 shall have been approved by the <sup>1</sup>Chief Commissioner of Oudh, they shall be published in the Gazette of India. After such publication the first and second of the said lists shall not, except in the manner provided by section 30 or section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

Supplement-  
ary list.

If, at any time after the publication of the said lists, it appears to the <sup>2</sup>[Local Government] that the name of any person has been wrongly

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>2</sup> For lists of taluqdars in Oudh, see the U. P. Local Rules and Orders.

<sup>3</sup> Substituted for the words "Governor General of India in Council" by the Devolution Act, 1920 (38 of 1920).

omitted from or wrongly entered in any of the said lists, the <sup>1</sup>[Local Government] may order the name to be inserted in the proper list, and such name shall be published in the <sup>2</sup>[local official Gazette] in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list

10 No persons shall be considered taluqdars or grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such taluqdars or grantees

None but persons named in list to be deemed taluqdars or grantees

#### IV—Powers of Taluqdars and Grantees to transfer and bequeath

11 Subject to the provisions of this Act, and to all the conditions <sup>3</sup>[other than those relating to succession] under which the estate was conferred by the British Government, every taluqdar and grantee, and every heir and legatee of a taluqdar and grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his lifetime, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest

Taluqdars and grantees may transfer and bequeath

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the transferor or testator is void

12 No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the life time of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom if he attains full age, the thing transferred or bequeathed is to belong

Rule against perpetuity

<sup>1</sup> Substituted for the words "said Governor General in Council" by the Devolution Act 1920 (38 of 1920)

<sup>2</sup> Substituted for the words "Gazette of India" by *ibid*

<sup>3</sup> These words in s 11 were inserted by s 4 of the Oudh Estates (Amendment) Act, 1910 (U P Act 3 of 1910) *infra* Vol II and as to the extent to which this amendment shall operate retrospectively see s 21 of *ibid*

except by a will duly executed and attested not less than three months before the death of the testator and registered according to the law for the time being in force relating to the registration of assurances, but presented for such registration within one month from the date of its execution ]

### V.—*Transfers and Bequests*

<sup>1</sup>[14. If any taluqdar or grantee, or his heir or legatee, shall here-  
 tofore have transferred or bequeathed, or if any taluqdar or grantee, or  
 his heir or legatee, shall hereafter transfer or bequeath the whole or any  
 portion of his estate—

Result of  
transfer or  
bequest of  
estate to  
taluqdars or  
heirs

(a) to another taluqdar or grantee, or his heir or legatee, or

(b) to any of the persons mentioned in clauses (1) and (2) of section  
 13A,

the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator

Provided that, if the transferee or legatee had or has, at the time when the transfer or bequest took or takes effect, an estate, the succession to which was or is governed by the rules contained in section 22, the transferee or legatee and his heirs and legatees shall hold such property subject to those rules ]

<sup>1</sup>[15. If any taluqdar or grantee, or his heir or legatee, shall here-  
 tofore have transferred or bequeathed, or if any taluqdar or grantee, or  
 his heir or legatee, shall hereafter transfer or bequeath the whole or any  
 portion of his estate to any person who did not at the time when the trans-  
 fer or bequest took effect belong to any of the classes specified in section  
 14, the transfer of and succession to the property so transferred or he-  
 queathed shall be regulated by the rules which would have governed the  
 transfer of and succession to such property if the transferee or legatee  
 had bought the same from a person not being a taluqdar or grantee, heir  
 or legatee ]

Result of  
transfer or  
bequest to  
persons out of  
line of  
succession

<sup>2</sup>[16. No transfer, otherwise than by gift, of any estate, or of any  
 portion thereof, or of any interest therein, made by a taluqdar or grantee,  
 or by his heir or legatee, or by a transferee mentioned in section 14, or  
 by his heir or legatee, under the provisions of this Act, shall be valid  
 unless made by a registered instrument signed by the transferor and  
 attested by two or more witnesses ]

Procedures  
relating to  
transfers  
otherwise  
than by gift.

<sup>1</sup> These sections were substituted for the original sections 14 and 15 by ss 7 and 8, respectively of the Oudh Estates (Amendment) Act, 1910 (U P Act 3 of 1910), *infra* Vol II, and as to the extent to which these sections shall operate retrospectively, see s 21 of *ibid*

<sup>2</sup> Section 16 was substituted by s 9 of *ibid*

17. [*Further requisites to validity of gifts inter vivos.*] *Rep. by s. 10 of U. P. 3 of 1910.*

Procedure relating to gifts to religious or charitable uses.

<sup>1</sup>[18. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, and no transferee mentioned in section 14, and no heir or legatee of such transferee, shall have power to give his estate, or any portion thereof, or any interest therein, to religious or charitable uses, except by an instrument of gift signed by the donor and attested by two or more witnesses not less than three months before his death and presented for registration within one month from the date of its execution and registered.]

#### VI.—*Testamentary Succession.*

Sections of Succession Act applied to wills of taluqdars.

19. Sections 49, 50, 51, 54, 55 and 57 to 77 (both inclusive), and sections 82, 83, 85 and 88 to 98 (both inclusive), of the Indian Succession Act (No. X of 1865),<sup>2</sup> shall apply to all wills and codicils made by any taluqdar or grantee, or by his heir or legatee,<sup>3</sup>[or by any transferee mentioned in section 14, or by the heir or legatee of such transferee] under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein: Provided that marriage shall not revoke any such will or codicil: Provided also that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

Bequests to religious and charitable uses.

20. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee having a child, parent, brother, unmarried sister, or a nephew being the naturally born son of a brother of such taluqdar or grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

#### VII.—*Intestate Succession.*

"Son," "descendants," "daughter,"

21. In the next following section, unless where there is something repugnant in the context, the words "son," "descendants,"

<sup>1</sup> Section 18 was substituted by s. 11 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), *infra*, Vol. II.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> These words and figures were inserted by s. 12 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), *infra*, Vol. II.

["brother" and "male agnate"] apply only to *najib ul tarfain*, and the word "widow" applies only to a woman belonging to the *ahl-i-* <sup>brother,"</sup> <sup>widow,"</sup> <sup>defined</sup> *bradari* of her deceased husband

<sup>2</sup>[22 If any taluqdar or grantee whose name shall be inserted in the second, third or fifth of the lists mentioned in section 8, or his heir or legatee, or if any taluqdar, grantee, heir or legatee whose name shall be inserted in the list referred to in section 31A, sub-section (3), or his heir or legatee, shall die interests as to his estate, such estate shall descend as follows, namely —

Special rules  
of succes-  
sion to  
intestate  
talugdars  
and grantees

- (1) to the eldest son of such taluqdar or grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased,
- (2) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his lifetime, leaving male lineal descendants, then to the eldest and every other son of such eldest son, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid,
- (3) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his father's lifetime without leaving male lineal descendants, then to the second and every other son of the said taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid,
- (4) or in default of such son or his male lineal descendants, then to such person as the said taluqdar or grantee, heir or legatee, shall have adopted and his male lineal descendants, subject as aforesaid,
- (5) or in default of such adopted son, or his male lineal descendants, then to the eldest and every other brother of such taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, brothers of the whole blood and their descendants being preferred to brothers of the half blood and their descendants, subject as aforesaid,
- (6) or in default of any such brother, or his male lineal descendants, then to the widow of the deceased taluqdar or grantee, heir or legatee, for her lifetime only, or, if there be more widows than one, to the widow first married to

<sup>1</sup> These words were substituted for the words "daughter and brother" by s 13 of the Oudh Estates (Amendment) Act, 1910 (U P Act 3 of 1910), *infra*, Vol II

<sup>2</sup> Section 22 was substituted by s 14 of *ibid*

such taluqdar or grantee, heir or legatee, for her lifetime only;

- (7) and on the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted, and his male lineal descendants, subject as aforesaid;

provided that, after the expiration of six months from the commencement of this Act such consent shall be expressed by means of a registered instrument or by means of a will or codicil, executed and attested in the manner required by this Act;

- (8) or on the death of such first married widow and in default of a son adopted by her with such consent as aforesaid, and his male lineal descendants, then to the other widow, if any, of such taluqdar or grantee, heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent as aforesaid, and his male lineal descendants; or in default of such adopted son, then to the other surviving widows in the order of their respective marriages, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;

- (9) or in default of any such widow or any such adopted son or any such male lineal descendants, then to the mother of the deceased taluqdar or grantee, heir or legatee, for her lifetime only;

*Explanation.*—In this clause the word “mother” does not include a stepmother; and in the case where the deceased was an adopted son, it means that wife or widow of the father who joined in or made the adoption, or if the adoption was made by the father alone and there are at the time of the death of the deceased more widows than one, it means the one who was first married and, on her death, the other surviving widows in the order of their respective marriages in succession;

- (10) or in default of or on the death of such mother, then to the nearest male agnate according to the rule of lineal primogeniture, subject as aforesaid;
- (11) or in default of any such agnate, then to such person as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such taluqdar or grantee, heir or legatee, are subject;

provided that when there are more persons than one so entitled, the estate shall descend to a single person according to the following rules, that is to say —

- (i) where among such persons some are connected by blood relationship and some by reason of marriage, the blood relations shall exclude the relations by marriage,
- (ii) where among such persons some are related by the whole blood and some by the half blood, those related by the whole blood shall exclude those related by the half blood,
- (iii) where, subject to the provisions of rules (i) and (ii), among such persons some are related through males only and some through females, the persons related through males only shall exclude the others, and amongst the others these shall be preferred in whose relationship the steps from the deceased proceed furthest through males,
- (iv) where among such persons some stand in a nearer and some in a more remote relationship to the deceased but both are equally qualified under the three preceding rules, those in the nearer degree shall exclude those in the more remote,
- (v) where such persons stand in equal degree of relationship to the deceased and are equally qualified under the four preceding rules, the estate shall descend to the eldest male in the senior line but if there be no male heir in that line then to the eldest male in the next senior line in which there is a male heir, and if there be no male heir in any line, then to the eldest female in the senior line

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section 11 ]

23 Except in the cases provided for by section 22, the succession to all property left by taluqdars and grantees and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject

General rule of succession to intestate taluqdars and grantees

#### VIII — Maintenance

24 When any taluqdar or grantee or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his

Maintenance of surviving relatives of taluqdars and grantees

or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned: Provided that such relative was at the date of the death of the deceased living together with him: Provided also that such relative is and continues to be without any other adequate means of maintenance.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

**25.** In the case of the grand-parents, parents and senior widows of the deceased, the maximum amount of the annuity shall be as follows:—

- (a) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees—a sum not exceeding 6,000 rupees:
- (b) where such revenue is or exceeds 1,00,000 rupees, but is less than 1,50,000 rupees—a sum not exceeding 2,400 rupees:
- (c) where such revenue is or exceeds 50,000 rupees, but is less than 1,00,000 rupees—a sum not exceeding 1,200 rupees:
- (d) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees—a sum not exceeding 600 rupees:
- (e) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees—a sum not exceeding 360 rupees:
- (f) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees—a sum not exceeding 240 rupees: and
- (g) where such revenue is less than 7,000 rupees—a sum not exceeding 180 rupees.

Grand-parents, parents and senior widows.

In the case of a junior widow of a deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section.

Junior widows.

**26.** In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Brothers and minor sons.

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

Nephews.

**27.** In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-bradari*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Unmarried daughters, widows of sons and brothers and inferior widows.

**28.** Subject to the provisions hereinbefore contained, the said annuities shall continue—

- (a) in the case of a minor son or a minor nephew, till he ceases to be a minor;

Continuance of annuities.



- (b) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, would, according to the custom of the country, cease to be entitled to maintenance, and
- (c) in all other cases, till the annuitant dies

### IX — Miscellaneous

29. Every Muhammadan taluqdar, grantee, heir or legatee and every widow of a Muhammadan taluqdar or grantee heir or legatee, with the consent in writing of her deceased husband, shall for the purposes of this Act, have power to adopt a son whenever if he or she were a Hindu, he or she might adopt a son

Muhammadan taluqdars and grantees empowered to adopt

\* \* \* \* \*

2[29A. No adoption made by a taluqdar or grantee, or by his heir or legatee, or by the widow of any such taluqdar or grantee, heir or legatee, shall be deemed to be valid unless, in addition to the requirements, if any, imposed by the personal law of the adopter, the fact of such adoption has been declared by the adopter in a writing executed and attested in manner required in case of a will and registered]

Attestation and registration of adoptions

30. Any taluqdar or grantee whose name has been entered in the third or fifth of the lists mentioned in section 8, or his heir or legatee, may, at any time hereafter, present to the 3[Local Government], a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject

Alteration of rules of intestate succession in cases of taluqdar and grantees named in list 3 or list 5

On receiving such declaration, the said 3[Local Government] shall cause to be inserted the name of such taluqdar or grantee, heir or legatee in the fourth or sixth (as the case may be) of the lists mentioned in section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section 23

31. Any taluqdar or grantee, heir or legatee may, at any time hereafter, present to the 2[Local Government] a declaration in writing, executed and registered in the manner required by this Act for the ex-

Reverter to ordinary law of succession.

be exercisable only by writing executed and attested in case of a will and registered; were omitted by s. 5 of 1910 (U P Act 3 of 1910), *infra*, Vol II

\* Section 29A was inserted by s. 16 of *ibid*

\* These words were substituted for "Chief Commissioner of Oudh" by s. 17 of *ibid*

cution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the <sup>1</sup>[Local Government] shall cause a note thereof to be made in the proper places in each of the lists mentioned in section 8 in which the name of such taluqdar or grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

Alteration of  
rules of  
intestate  
succession in  
cases of  
taludars  
named in  
list 4 and  
grantees  
named in  
lists 1 and 6.

<sup>2</sup>[31A. (1) Any taluqdar whose name has been inserted in the fourth of the lists prepared under section 8, or any grantee whose name has been inserted both in the first and in the sixth of the said lists, or the heir or legatee of such taluqdar or grantee, may declare that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 23 and that it shall in future be regulated in the manner described in section 22.]

(2) Every such declaration shall be in writing, signed by the declarant, attested by two or more witnesses and registered, and shall be presented to the Local Government.

(3) On receiving such declaration the Local Government shall cause the name of such taluqdar, grantee, heir or legatee, to be inserted in a <sup>3</sup>list which shall, as occasion may arise, be published in the Gazette of India, and shall cause a note thereof to be made in the proper place in the fourth or sixth (as the case may be) of the said lists.

(4) Thenceforward the succession to the estate shall, in the case of intestacy, be regulated in the manner provided by section 22.

(5) The Courts shall take judicial notice of such list and shall regard it as conclusive evidence that such declaration has been made, registered and presented as above to the Local Government, and that the Local Government has made the note referred to in sub-section (3).]

Savings of  
rights of  
creditors.

32. Nothing hereinbefore contained shall affect any right which the creditors of any person making a <sup>4</sup>[transfer, bequest or declaration] under the provisions of this Act would have possessed as against the property comprised in such <sup>4</sup>[transfer, bequest or declaration] if this Act had not been passed.

<sup>1</sup> These words were substituted for the words "Chief Commissioner" by s. 17 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), *infra*, Vol. II.

<sup>2</sup> Section 31A was inserted by s. 18 of *ibid*.

<sup>3</sup> For such a list, see U. P. Local Rules and Orders.

<sup>4</sup> These words were substituted for the words "transfer or bequest" by s. 19 of the Oudh Estates (Amendment) Act, 1910 (U. P. Act 3 of 1910), *infra*, Vol. II.

<sup>1</sup>[32A. (1) Any taluqdar, grantee, or his heir or legatee, may, by a registered instrument bearing a non-judicial stamp of fifteen rupees, signed by him and attested by two or more witnesses, declare that the immovable property situated in the United Provinces in which he has a separate, permanent, heritable and transferable right, and which is specified in the instrument, is a part of his estate for the purposes of this Act

Power to declare property subject to the Act

Such declaration shall take effect from the date of the registration thereof

(2) It shall be the duty of the registering officer to furnish the Collector of every district in which any portion of the property is situated with a properly authenticated copy of the declaration, and on receipt of such copy the Collector shall cause a note to be made in the record of rights relating to the immoveable property specified and shall also cause a copy of the declaration to be published in the Gazette in English and in the vernacular ]

33 And whereas bodies of taluqdars have in several cases made awards respecting the provision to be made for certain relatives of taluqdars, and it is expedient to render such awards legally enforceable, It is hereby further enacted that every such award shall, if approved by the Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment

Awards as compensations and maintenance

## SCHEDULES

### FIRST SCHEDULE

(See section 3)

#### I

From C BEADON Esq. Secretary to the Government of India Foreign Department to C J WINGFIELD Esq. Chief Commissioner of Oudh,—(No 6268, dated 10th October, 1859)

I AM directed by the Governor General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the taluqdar settlement of Oudh

No 1091, dated the 1 June  
No 1377, dated the 15th July

<sup>1</sup> Sect on 32A was inserted by s 20 of the Oudh Estates (Amendment) Act, 1910 (U P Act 3 of 1910), *infra*, Vol II

<sup>2</sup> Read now " Board of Revenue of the United Provinces of Agra and Oudh " The Chief Commissioner of Oudh was subsequent to the passing of this Act invested with all the powers of the Financial Commissioner as Chief Controlling Revenue authority in Oudh, see Notification No 316 dated 22nd September, 1871, Gazette of India 1871, Pt I, p 727 and under the United Provinces and Oudh Act, 1890 (20 of 1890), *infra*, the Board of Revenue of the United Provinces of Agra and Oudh takes the place of the Chief Commissioner and Chief Controlling Revenue authority

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the taluqdars in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every taluqdar with whom a summary settlement has been made since the re-occupation of the province has thereby acquired a permanent hereditary and transferable proprietary right, namely, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamindars and village-occupants from extortion, and of upholding their rights in the soil in subordination to the taluqdars.

4. The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the taluqdars upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these taluqdars at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General.

5. I am directed to add that, as regards zamindars and others not being taluqdars, with whom a summary settlement has been made, the orders conveyed in the Limitation Circular No. 31 of the 28th of January, 1859, must not be strictly observed. Opportunity must be allowed at the next settlement to all disappointed claimants, to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

## II.

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, with the Governor General, to Chief Commissioner, Oudh,—(No. 23, dated 19th October, 1859).

I AM directed by His Excellency the Governor General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the taluqdars of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdars and on their heirs for ever the full

proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdars will be secured in the possession of the subordinate rights which they have heretofore enjoyed

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamindars or other persons have held an interest in the soil intermediate between the raiyat and the taluqdar, the amount or proportion payable by the intermediate holder to the taluqdar, and the net jama finally payable by the taluqdar to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdar being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (*pattas*) are given to the subordinate zamindars, they will be given by the taluqdar, not by the Government

5. This being the position in which the taluqdars will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is, in many cases, more intimate and more ancient than theirs, and it is obvious that the only effectual protection which the Government can extend to these inferior holders is to define and record their rights and to limit the demand of the taluqdars as against such persons during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue demand

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamindars and taluqdars, are questions to be determined at the time of settlement

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdari tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamindari tenure intermediate between the tenures of the taluqdar and the raiyat is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected

. SECOND SCHEDULE.

(See section 4.)

- (1) Dig-Bijay Singh, Raja of Balrampur.
- (2) Rao Hardeo Bakhsh Singh, of Katiari.
- (3) Kashi Parshad, Taluqdar of Sissendi.
- (4) Jhabba Singh, Zamindar of Gopal Khera.
- (5) Chandan Lal, Zamindar of Moraon (Baiswara).

ACT No. XIII of 1869.<sup>1</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[19th March, 1869.]

An Act further to amend the Procedure of the High Court of  
 Judicature for the North-Western Provinces.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:

1. [*Trial of Natives and European British subjects conjointly.*] *Rep. Act X of 1875.*

2. [*Record of evidence.*] *Rep. Act X of 1875.*

Power to  
award costs  
on petitions,  
etc.

3. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil<sup>2</sup> or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

Penalty for  
making false  
statements in  
support of  
petitions, etc.

<sup>2</sup>4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1868, p. 1681; and for Proceedings in Council, see *ibid*, Supplement, pp. 1108 and 1109; and *ibid*, 1869, Supplement, p. 464.

<sup>2</sup> The word "criminal" in s. 3 is omitted as so much of both ss. 3 and 4 as relate to criminal jurisdiction was repealed by the High Court's Criminal Procedure Act, 1875 (10 of 1875), s. 2.

ACT No XXIV or 1870<sup>1</sup>

## THE OUDH TALUQDARS' RELIEF ACT.

[APPEALS TO THE PROVINCE OF OUDH ]

[7th September, 1870 ]

## An Act to relieve from incumbrances the estates of Taluqdars in Oudh

WHEREAS many of the taluqdars of Oudh are in debt, and their immovable property is subject to mortgages, charges and liens, and whereas it is expedient to provide for their relief in manner hereinafter appearing, It is hereby enacted as follows —

*I—Preliminary*

1. This Act may be called the Oudh Taluqdars' Relief Act

Short title

2. In this Act—

Interpretation clause

“Chief Commissioner” means the Chief Commissioner of Oudh

“taluqdar” means a person whose name is entered in the first of the lists mentioned in the Oudh Estates Act, 1869, section 8

“heir” means the person for the time being entitled under the same Act as heir to a taluqdar

*II—Vesting Order*

3. Whenever, within twelve months after the passing of this Act any taluqdar,

Power to vest management of taluqdars' property in officer appointed by Chief Commissioner

or (when such taluqdar is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such taluqdar if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

applies in writing to the Chief Commissioner, stating that the taluqdar is subject to, or that his immovable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1870 Pt V, p 161. for Proceedings in Council, see *ibid*, 1870 Supplement, pp 99, 855 and 1128

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>3</sup> Supra

the <sup>1</sup>Chief Commissioner may, with the previous consent of the Governor General of India in Council, by order published in the local official Gazette appoint an officer (hereinafter called the manager), and vest in him the management of the immoveable property of or to which the taluqdar is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdar or his heir during the continuance of such management.

Effect of  
order—  
bar of suits  
against  
taluqdar.

4. On such publication, the following consequences shall ensue:

*first*, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India shall be barred; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

*secondly*, so long as such management continues,—

the taluqdar and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdar was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

Taluqdar  
freed from  
arrest,

and his move-  
able property  
from attach-  
ment for  
prior debts :

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid; and

*thirdly*, so long as such management continues,—

cessation of  
his power to  
alienate

(a) the taluqdar and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom; and

immoveable  
property  
freed from  
attachment.

(b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred to Government.

### III.—Duties of Manager.

5. The manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

Manager to  
receive rents  
and profits,

and pay  
therefrom—  
Government  
demand,

*first*, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.



- secondly*, such annual sum as appears to the <sup>1</sup>Chief Commissioner requisite for the maintenance of the taluqdar, his heir and their families annual sum for maintenance of taluqdar and his heir
- thirdly*, the cost of such repairs and improvements of the property as appear necessary to the manager and are approved by the <sup>1</sup>Chief Commissioner cost of repairs and improvements

and the residue shall be applied in discharge of the costs of the management and in settlement of such debts and liabilities of the taluqdar and his heir and their immoveable property as may be established under the provisions hereinafter contained cost of management and debts and liabilities

#### IV—Settlement of Debts

6 On the publication of the order vesting in him the management of the said property the manager shall publish in the local official Gazette a notice in English and Urdu calling upon all persons having claims against the taluqdar or his immoveable property to notify the same in writing to such manager within three months from the date of the publication Notice to claimants against taluqdar

He shall also cause copies of such notice to be exhibited at the tahsil dars' kachahris in the district or districts in which the said property lies and at such other places as the manager thinks fit Copies of notice to be exhibited

7 Every such claimant shall along with his claim, present full particulars thereof Claim to contain all particulars

Every document on which the claimant founds his claim or on which he relies in support thereof shall be delivered to the manager along with the claim Documents to be given up

If the document be an entry in any book the claimant shall produce the book to the manager together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification and after examining and comparing the copy with the original shall return the book to the claimant Entries in books

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case Exclusion of documents not produced

8 Every debt or liability (other than debts due or liabilities incurred to Government) to which the taluqdar is subject or with which his immoveable property or any part thereof is charged and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred Debt or liability, not duly notified to be barred.

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh

Provision for admission of claim within further period of nine months.

Determination of debts and liabilities.

Appeal.

Scheme for settlement of debts and liabilities.

Power to return scheme for revision.

Restoration of taluqdar to property.

Revival of barred proceedings and debts.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 6 and 7, the manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

9. The manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdar and persons holding mortgages, charges or liens on the said property or any part thereof.

10. An appeal against any refusal, admission or determination under section 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the manager if no such appeal has been so preferred, shall be final.

11. When the total amount of such debts and liabilities has been finally determined, the manager shall prepare and submit to the <sup>1</sup>Chief Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the <sup>1</sup>Chief Commissioner, shall be carried into effect.

Until such approval is given, the <sup>1</sup>Chief Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

12. When all such debts and liabilities have been discharged, or if, within six months after the publication of the order mentioned in section 3, the <sup>1</sup>Chief Commissioner thinks that the provisions of this Act should not continue to apply to the case of the taluqdar or his heir,

the taluqdar or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the manager under the power contained in section 19, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Where the taluqdar or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in [section 4]<sup>2</sup> (so far as they relate to debts and liabilities not settled by the manager), and the debts and liabilities barred by section 8, shall be revived, and any mortgagee dispossessed under section 17 shall be re-instated unless his claim under the mortgage has been satisfied;

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>2</sup> This word and figure was substituted for the word and figure "section 3" by the Amending Act, 1891 (12 of 1891), s. 2 (2), General Acts, Vol. IV.

and, in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 3 shall be excluded

### V—Powers of Manager

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied Power to call for further particulars

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure <sup>1</sup> Power to summon witnesses and compel production of documents

15. The manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act Power to administer oaths

16. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code <sup>2</sup> Investigation to be deemed judicial proceeding

And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code. Statements of persons examined to be evidence

17 The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immovable property, the same powers as the taluqdar would have had for such purpose if this Act had not been passed Manager to have powers of taluqdar

And if such property, or any part thereof, be in the possession of any mortgagee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained Power to remove mortgagee in possession

18. Subject to the rules made under section 20, the manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon Power to lease

<sup>1</sup> See now Act 5 of 1908 in Genl Acts, Vol VI

<sup>2</sup> Genl Acts, Vol I

Power to  
raise money  
by mortgage  
or sale.

19. The manager, with the previous assent of the <sup>1</sup>Chief Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdar and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's  
receipts.

And the receipt of the manager for any moneys paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in section 3.

#### VI.—Miscellaneous.

Power to  
make rules.

20. The <sup>1</sup>Chief Commissioner may, from time to time, make rules<sup>2</sup> consistent with this Act in all matters connected with its enforcement.

Such rules, when approved by the Governor General of India in Council and published in the local official Gazette, shall have the force of law.

Power to  
appoint new  
managers.

21. Whenever the <sup>1</sup>Chief Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to  
be public  
servants.

22. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.<sup>3</sup>

XLV of 1860.

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>2</sup> For rules under s. 20, see the U. P. Local Rules and Orders.

<sup>3</sup> Genl. Acts, Vol. I.

23 No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act

Bar of suits

24 No petition, application, memorandum of appeal or other proceeding under this Act shall be chargeable under the Court-fees Act, 1870.<sup>1</sup>

Petitions etc under Act exempt from court fees

25. Nothing in this Act precludes the Courts of the Province of Oudh having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act from entertaining and disposing of such suits, but to all such suits the manager of such property shall be made a party

Saving of jurisdiction of Courts in Oudh in respect of certain suits

### ACT No XXI of 1871<sup>2</sup>

[APPLIES TO THE PROVINCE OF AGRA ]

[11th July, 1871 ]

## An Act to give validity to the operation of the General Regulations and Acts within the Dehra Dun

WHEREAS it is necessary to give validity to the operation of the general Regulations and Acts within the district under the Superintendent of the Dehra Dun \* \* \* <sup>3</sup>, it is hereby enacted as follows —

1. The Regulations and Acts now in force in the district of Saharanpur are hereby declared to extend to the said district of Dehra Dun<sup>4</sup> \* \*

Extension of Regulations and Acts in force in Saharanpur to Dehra Dun

2 The High Court and the Board of Revenue of the North Western Provinces shall exercise \* \* \* <sup>5</sup> respectively, in the said district, all the powers which the said High Court or Board of Revenue are at

Jurisdiction of High Court and Board of Revenue over Dehra Dun.

<sup>1</sup> Genl Acts, Vol II

<sup>2</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1871, Pt V, p 221, for Proceedings in Council see *ibid* Supplement, pp 907 and 1050

<sup>3</sup> The words 'and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts' were repealed by the Repealing Act 1874 (16 of 1874)

<sup>4</sup> The words 'and no judgment heretofore given order passed or proceeding had in the said district shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment order or proceeding was given passed or had was not in force at the time of such judgment order or proceeding, or on the ground of a defect of jurisdiction in any Court or officer' were repealed by the Amending Act 1891 (12 of 1891) Genl Acts Vol IV

<sup>5</sup> The words 'and shall be deemed to have been heretofore authorized to exercise' were repealed by *ibid*

present, respectively, authorized to exercise in any part of the North-Western Provinces.

District Court  
of Saharan-  
pur to be  
District Court  
of Dehra  
Dun.  
Exemption  
of Jaunsar  
Bawar.

3. The District Court of Saharanpur shall be <sup>1</sup>\* \* \* the District Court of such district until the Local Government otherwise directs<sup>2</sup> \* \*.

4. Nothing in this Act shall apply to that portion of the Dehra Dun District called <sup>3</sup>Jaunsar Bawar \* \* \* <sup>4</sup>.

## THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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<sup>1</sup> The words "deemed to have been heretofore the District Court of the said district of Dehra Dun, and" were repealed by Act 12 of 1891, Genl. Acts, Vol. IV.

<sup>2</sup> The words "and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act" at the end of s. 3 were repealed by *ibid.*

<sup>3</sup> "Jaunsar Bawar" is one of the scheduled districts of the Province of Agra, see the Scheduled Districts Act, 1874 (14 of 1874), First Schedule, Pt. IV, General Acts, Vol. II.

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## THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

[APPLIES TO THE UNITED PROVINCES.]

[11th February, 1873.]

An Act to regulate Irrigation, Navigation and Drainage in  
Northern India.

Preamble.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

Short title.

1. This Act may be called the Northern India Canal and Drainage Act, 1873.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1872, Pt. V, p. 651; for Reports of Select Committee, see *ibid*, p. 747, and *ibid*, Supplement, 1873, p. 223; for Proceedings in Council, see *ibid*, Supplement, pp. 919, 956 and 1081; *ibid*, 1873, Supplement, pp. 54, 156, 223, 246 and 279.

Act 8 of 1873 has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to the Tarai Parganas—see Vol. III, Appendix.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces, and applies to all lands whether permanently settled, temporarily settled or free from revenue

[Commencement] *Rep by the Repealing Act, 1874 (XVI of 1874)*

2. [Repeal of Acts] *Rep by the Repealing Act, 1873 (XII of 1873)*

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation clause

(1) "canal" includes—

- (a) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water,
- (b) all works, embankments, structures, supply and escape channels connected with such canals, channels or reservoirs,
- (c) all water courses as defined in the second clause of this section,
- (d) any part of a river, stream, lake or natural collection of water, or natural drainage channel, to which the Local Government has applied the provisions of Part II of this Act,

(2) "water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

(3) "drainage work" includes escape channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

(4) "vessel" includes boats, rafts, timber and other floating bodies,

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner,

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>2</sup> This definition of 'canal' has been extended in Part V see s 74 *infra*

<sup>3</sup> Of definition in s 3 (56), General Clauses Act, 1897 (10 of 1897), General Acts,

(6) "Collector"<sup>1</sup> means the head Revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

(7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal-officer" means an officer exercising control over a division of a canal;

"Sub-divisional Canal-officer" means an officer exercising control over a sub-division of a canal;

(8) "district" means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may, from time to time, declare by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

## PART II.

### OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

Notification to issue when water-supply is to be applied for public purpose.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake, or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

the Local Government may, by notification<sup>2</sup> in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Canal-officer.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places,

<sup>1</sup> *Of.* definition in s. 3 (10), General Clauses Act, 1897 (10 of 1897), General Acts, Vol. IV.

<sup>2</sup> For notification declaring that the waters of certain streams shall be applied to public purposes, see the U. P. Local Rules and Orders.

stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him

- 8 No compensation shall be awarded for any damage caused by —
- (a) stoppage or diminution of percolation or floods,
  - (b) deterioration of climate or soil,
  - (c) stoppage of navigation, or of the means of drifting timber or watering cattle,
  - (d) displacement of labour

Damage for which compensation shall not be awarded

But compensation may be awarded in respect of any of the following matters —

- (e) stoppage or diminution of supply of water through any natural channel to any defunct artificial channel, whether above or under ground, in use at the date of the said notification
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit or any channel, whether natural or artificial, in use at the date of the said notification
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification,
- (h) damage done in respect of any right to a water course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV,<sup>1</sup>
- (i) any other substantial damage, not falling under any of the above clauses (a), (b) (c) or (d), and caused by the exercise of the powers conferred by this Act which is capable of being ascertained and estimated at the time of awarding such compensation

Matters in respect of which compensation may be awarded

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed, and, where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act

No right to any such supply of water as is referred to in clause (e) (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871 Part IV<sup>1</sup>

<sup>1</sup> See now Part IV (ss 26 to 28) of the Indian Limitation Act 1908 (9 of 1908) General Acts Vol VI Act 9 of 1871 was repealed and re-enacted by Act 15 of 1877 which in its turn was repealed and re-enacted by Act 9 of 1908

And no right to any of the advantages referred to in clauses (a), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land Acquisition Act, 1870,<sup>1</sup> shall apply to such enquiries:

X of

Provided that, instead of the last clause of the said section 26, the following shall be read: "The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section 8; takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

<sup>1</sup> Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

## PART III

## OF THE CONSTRUCTION AND MAINTENANCE OF WORKS

14 Any Canal officer or other person acting under the general or special order of a Canal officer, Power to enter and survey, etc

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon,

and dig and bore into the sub soil,

and make and set up suitable land marks, level marks and water gauges,

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal officer

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle, Power to clear land

and may also enter upon any land, building or water course on account of which any water rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation and management of such canal Power to inspect and regulate water supply

Provided that, if such Canal officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so Notice of intended entry into houses

In every case of entry under this section, the Canal officer shall at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section, and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final Compensation for damage caused by entry

15 In case of any accident happening or being apprehended to a canal, any Divisional Canal officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident Power to enter for repairs and to prevent accidents

\* As to the application of s 14 in the case of proposed drainage works, see s 58 *infra*

Compensation  
for damage to  
land.

In every such case such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section 43 of the Land Acquisition Act, X of 1870.<sup>1</sup>

Application  
by persons  
desiring to  
use canal-  
water.

**16.** Any persons desiring to use the water of any canal may apply in writing to the Divisional or Sub-divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of  
application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of  
applicants for  
cost of works.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of  
amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government  
to provide  
means of  
crossing  
canals.

**17.** There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and, if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons using  
water-course  
to construct  
works for  
passing water  
across roads,  
etc.

**18.** The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

<sup>1</sup> See now s. 35 of the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.



Such order shall specify a reasonable period within which such construction or repairs shall be completed

If they fail,  
Canal officer  
may construct,

and if after the receipt of such order the persons to whom it is addressed do not, within the said period construct or repair such works to the satisfaction of the said Canal officer he may with the previous approval of the Superintending Canal officer, himself construct or repair the same

and, if the said persons do not, when so required pay the cost of such construction or repairs as declared by the Divisional Canal officer the amount shall, on the demand of the Divisional Canal officer be recoverable from them by the Collector as if it were an arrear of land revenue

and recover  
cost

19 If any person jointly responsible with others for the construction or maintenance of a water course, or jointly making use of a water course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance the Divisional or Sub divisional Canal officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that on the expiration of a fortnight from the service he will investigate the case and shall on the expiration of that period investigate the case accordingly, and make such order thereon as to him seems fit

Adjustment  
of claims  
between  
persons  
jointly  
using water  
course

Such order shall be appealable to the Commissioner, whose order thereon shall be final

Any sum directed by such order to be paid within a specified period may, if not paid within such period and if the order remains in force, be recovered by the Collector, from the person directed to pay the same as if it were an arrear of land revenue

Recovery of  
amount  
found due

20 Whenever application is made to a Divisional Canal officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water course, he shall give notice to the persons responsible for the maintenance of such water course to show cause on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed, and, after making enquiry on such day, the Divisional Canal officer shall determine whether and on what conditions the said supply shall be conveyed through such water course

Supply of  
water  
through  
intervening  
water course

When such officer determines that a supply of canal water may be conveyed through any water course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water course

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application  
for construc-  
tion of new  
water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating—

- (1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of  
Canal-officer  
thereupon.

22. If the Divisional Canal-officer considers—

- (1) that the construction of such water-course is expedient, and
- (2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he considers likely to become due under section 28;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application  
for transfer  
of existing  
water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

- (1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;
- (2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;
- (3) that he is able to defray the cost of such transfer.

If the Divisional Canal officer considers—

Procedure  
thereupon

- (a) that the said transfer is necessary for the better management of the irrigation from such water course, and
- (b) that the statements in the application are true

he shall call upon the applicant to make such deposit as the Divisional Canal officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer

and upon such deposit being made he shall publish a notice of the application in every village and shall send a copy of the notice to the Collector of every district through which such water course passes

24 Within thirty days from the publication of a notice under section 22 or section 23, as the case may be any person interested in the land or water course to which the notice refers may apply to the Collector by petition stating his objection to the construction or transfer for which application has been made

Objections to  
construction  
or transfer  
applied for

The Collector may either reject the petition or may proceed to inquire into the validity of the objection giving previous notice to the Divisional Canal officer of the place and time at which such inquiry will be held

The Collector shall record in writing all orders passed by him under this section and the grounds thereof

25 If no such objection is made or (where such objection is made) if the Collector overrules it he shall give notice to the Divisional Canal officer to that effect and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water course to be transferred as the case may be

When appli-  
cant may be  
placed in  
occupation

26 If the Collector considers any objection made as aforesaid to be valid he shall inform the Divisional Canal officer accordingly and if such officer sees fit he may in the case of an application under section 21 alter the boundaries of the land so marked out and may give fresh notice under section 22 and the procedure hereinbefore provided shall be applicable to such notice and the Collector shall thereupon proceed as before provided

Procedure  
when objec-  
tion is  
held valid

27 If the Canal officer disagrees with the Collector the matter shall be referred for decision to the Commissioner

Procedure  
when Canal  
officer dis-  
agrees with  
Collector

Such decision shall be final and the Collector if he is so directed by such decision shall subject to the provisions of section 28 cause the said applicant to be placed in occupation of the land so marked out or of the water course to be transferred as the case may be

28 No such applicant shall be placed in occupation of such land or water course until he has paid to the person named by the Collector

Expenses to  
be paid by  
applicant

before receiving occupation.

such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, X of 1870;<sup>1</sup> but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

*First.*—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

*Second.*—Land occupied for a water-course under the provisions of section 22 shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge.

*Fourth.*—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acta. Vol. IV.

or assess the amount of such compensation, and, if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent per annum from the date on which it became due, as if it were an arrear of land revenue and shall pay the same, when recovered, to the person to whom it is due

If any of the rules and conditions prescribed by this section are not complied with,

or if any water course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant or of his representative in interest, to occupy such land or water course shall cease absolutely

30 The procedure hereinbefore provided for the occupation of land for the construction of a water course shall be applicable to the occupation of land for any extension or alteration of a water course and for the deposit of soil from water course clearances

Procedure applicable to occupation for extensions and alterations.

## PART IV

### OF THE SUPPLY OF WATER

31 In the absence of a written contract or so far as any such contract does not extend, every supply of canal water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof

In absence of written contract water supply to be subject to rules.

32 Such contracts and rules must be consistent with the following conditions —

Conditions as to—

(a) The Divisional Canal officer may not stop the supply of water to any water course, or to any person, except in the following cases —

power to stop water supply,

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government,

(2) whenever and so long as any water course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom,

(3) within periods fixed from time to time by the Divisional Canal officer

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage

claims to compensation in case of

failure or  
stoppage of  
supply ;

of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government:

claims on ac-  
count of in-  
terruption  
from other  
causes ;

- (c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss:

duration of  
supply ;

- (d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

sale or sub-  
letting of  
right to use  
canal-water ;

- (e) Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use:

Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

transfer, with  
land, of  
contracts for  
water.

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place:

No right  
acquired by  
user.

- (f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871,<sup>1</sup> Part IV; nor shall Government be bound IX of 1 to supply any person with water except in accordance with the terms of a contract in writing.

<sup>1</sup> See the footnotes to s. 8, *supra*.

## PART V.

## OF WATER-RATES

33. If water supplied through a water course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, Liability when person using unauthorized cannot be identified.

the person on whose land such water has flowed, if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use

34. If water supplied through a water course be suffered to run to waste and if, after enquiry by the Divisional Canal officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water course shall be jointly liable for the charges made in respect of the water so wasted Liability when water runs to waste

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste Charges recoverable in addition to penalties.

All questions under section 33 or section 34 shall be decided by the Divisional Canal officer, subject to an appeal to the head Revenue officer of the district, or such other appeal as may be provided under section 75 Decision of questions under sections 33 and 34

36. The rates to be charged for canal water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly Charge on occupier for water how determined.

A rate so charged shall be called the "occupier's rate"

<sup>2</sup>[The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sublet their lands, or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy]

<sup>1</sup> For power to make rules see s 75, *infra*

<sup>2</sup> This paragraph was added to s 36 by the Northern India Canal and Drainage (Amendment) Act, 1899 (16 of 1899), s 2, *infra*

“ Owner’s  
rate.”

37. In addition to the occupier’s rate, a rate to be called the “ owner’s rate ” may be imposed, according to rules<sup>1</sup> to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Amount of  
owner’s rate.

38. The owner’s rate shall not exceed the sum, which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner’s rate  
when not  
chargeable.

39. No owner’s rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

When occu-  
pier is to pay  
both owner’s  
rate and oc-  
cupier’s rate.

40. If such land is occupied by the owner,  
or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner’s rate as well as the occupier’s rate.

Power to  
make rules  
for appor-  
tioning  
owner’s rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules<sup>2</sup> for dividing the owner’s rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner  
is to pay  
owner’s rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation;

or if, when the amount of a rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner’s rate.

Effect of in-  
troduction of  
canal irriga-  
tion on land-  
lord’s right to  
enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal irrigation into any land shall have the same effect on the landlord’s right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of the settlement had taken place, under which the revenue payable in respect of the land was reduced or eased.

Water-rate  
by whom  
payable when  
charged on  
land held by

own-  
the

charged on and held by several joint  
manag ther person who receives  
may, acted by him from such



rents or profits before division, or may be recovered by him from the several persons liable to such rate in the manner customary in the recovery of owners. other charges on such rents or profits

### *Recovery of Charges*

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue Certified dues recoverable as land-revenue.

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party Power to contract for collection of canal dues

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal water shall have been supplied or used

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45, and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party

47. The Collector may require the lamhardar or person under engagement to pay the land revenue of any estate to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate Lamhardars may be required to collect canal dues

Such sums shall be recoverable by the Collector as if they were arrears of land revenue due in respect of the defaulter's share in such estate

and, for the purpose of collecting such sums from the subordinate zamindars, raiyats <sup>1</sup>[tenants or sub tenants], such lamhardar or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue

The Local Government shall provide—

- (a) for remunerating persons collecting sums under this section, or
- (b) for indemnifying them against expenses properly incurred by them in such collection, or
- (c) for both such purposes

48 Nothing in sections 45, 46 or 47 applies to fines

Fines excluded from

<sup>1</sup> These words were substituted for the words "or tenants" by the North India

## PART VI.

## OF CANAL-NAVIGATION.

Detainer of  
vessels violat-  
ing rules.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Liability of  
owners of  
vessels caus-  
ing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of  
fines for  
offences in  
navigating  
canals.

50. Any fine imposed under this Act upon the owner of any vessel or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure,<sup>1</sup> or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to  
seize and  
detain vessel  
on failure to  
pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to  
seize cargo or  
goods, if  
charges due  
thereon are  
not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for  
recovery of  
such charges  
after seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

And, if such claim be not so discharged, the said Canal officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized

54 If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal be left unclaimed for a period of two months, the Divisional Canal officer may take possession of the same

Procedure in respect of vessels abandoned and goods unclaimed

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same, and, if such vessel, contents, cargo or goods be not so claimed he may, at any time after the day named in the notice, proceed to sell the same

The said vessel and its contents and the said cargo or goods, if unsold, or, if a sale has taken place the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal officer

Disposal of proceeds of sale

If the Divisional Canal officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction

## PART VII

### OF DRAINAGE

55 Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage channel, such Government may, by notification<sup>1</sup> published in the official Gazette, prohibit, obstructions or order the removal

Power to prohibit obstructions or order the removal

<sup>1</sup> For notifications prohibiting and removing obstructions in certain streams see U P Local Rules and Orders

within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

Power to  
remove  
obstructions  
after prohi-  
bition.

56. The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and, if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation  
of schemes  
for works of  
improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government purposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of  
persons  
employed on  
such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section 14.

Rates on  
lands benefi-  
ted by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:

(1) six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

(2) in the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be

assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work

Such rate may be varied from time to time, within such maximum, by the Local Government

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person, as the case may be

60. Any such drainage rate may be collected and recovered in manner provided by sections 45, 46 and 47 for the collection and recovery of water-rates Recovery rate

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified, Disposal claims to compensation.

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section 10

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period Limitation of such claims

## PART VIII

### OF OBTAINING LABOUR FOR CANALS AND DRAINAGE WORKS

63 For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government Definition labourer

64. In any District in which a canal or drainage work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector— Power to prescribe number of labourers to be supplied by persons benefited canal

(a) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub proprietors or farmers the number of labourers which shall be furnished

ed by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

Procedure  
for obtaining  
labour for  
works urgent-  
ly required.

**65.** Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state—

- (a) the nature and locality of the work to be done,
- (b) the number of labourers to be supplied by the person upon whom the requisition is made, and
- (c) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: Provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, <sup>1</sup>\* \* \* direct that the provisions of this Part shall apply, either permanently or temporarily as the case may be, to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of  
labourers  
under  
requisition.

**66.** When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were repealed by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

## PART IX

## OF JURISDICTION.

67. Except where, herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts, but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order

Jurisdiction under this Act of Civil Courts

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the *Divisional Canal-officer stating the matter in dispute*. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter

Settlement of differences as to mutual rights and liabilities of persons interested in water-courses

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court

69. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the <sup>1</sup>Code of Civil Procedure, and every such inquiry shall be deemed a judicial proceeding

Power to summon and examine witnesses

## PART X

## OF OFFENCES AND PENALTIES

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

Offences under Act.

- (1) damages, alters, enlarges or obstructs any canal or drainage-work,
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work,
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work,

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol VI

- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner,
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used,
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal,
- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon,
- (8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him,
- (9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour,
- (10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant,
- (11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom,
- (12) violates any rule made under this Act, for breach whereof a penalty may be incurred.

Penalty. shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws. **71.** Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Compensation to person injured. **72.** Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant. **73.** Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:—

- (1) wilful damages or obstructs any canal or drainage-work;
- (2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any



river or stream, so as to endanger, damage or render less useful any canal or drainage work

74 In this Part of the word "canal" shall (unless there be some thing repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands

Definition  
of canal

## PART XI

### OF SUBSIDIARY RULES

75 The Local Government may, from time to time, \* \* \* \* \* Power to make alter and cancel rules  
\* \* \* \*, make rules<sup>1</sup> to regulate the following matters —

- (1) the proceedings of any officer who under any provision of this Act, is required or empowered to take action in any matter,
- (2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable,
- (3) the persons by whom, [and<sup>2</sup>] the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done,
- (4) the amount of any charge made under this Act,
- (5) and, generally, to carry out the provisions of this Act

The Local Government may from time to time,<sup>1</sup> \* \* \* \* \*, alter or cancel any rules so made

Such rules alterations and cancellments shall be published in the local official Gazette, and shall thereupon have the force of law

Publication  
of rules

## SCHEDULE

### ACTS REPEALED

(*Reg. Act XII of 1873*)

<sup>1</sup> The words "subject to the control of the Governor General in Council" and "subject to the like control" were repealed by the Devolution Act 1920 (38 of 1920)

<sup>2</sup> For rules see U P Local Rules and Orders

<sup>3</sup> The word "and" was inserted by the Amending Act 1891 (12 of 1891) General Acts Vol IV

ACT No. XVI of 1873.<sup>1</sup>THE NORTH-WESTERN PROVINCES VILLAGE AND ROAD  
POLICE ACT, 1873.

[APPLIES TO THE PROVINCE OF AGRA.]

[21st November, 1873.]

An Act to consolidate and amend the law relating to Village  
and Road Police in the North-Western Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating  
to the village and road police in the North-Western Provinces of the  
Presidency of Fort William in Bengal; It is hereby enacted as follows:—*I.—Preliminary.*

Short title.

1. This Act may be called the North-Western Provinces Village and  
Road Police Act, 1873:

Local extent.

\* \* \* \* \* This Act extends only to the territories for the time  
being under the government of the Lieutenant-Governor of the North-  
Western Provinces.[Commencement.] *Rep. by the Repealing Act, 1876 (XII of 1876).*2. [Repeal of enactments.] *Rep. by the Repealing Act, 1874 (XVI  
of 1874).**II.—Appointment of Village Police.*Right of  
nomination  
of village-  
policemen.3. The nomination to the post of village-policeman shall be made by  
the zamindar of the village, or, where there are more zamindars than one,  
by the lambardar as their representative; and, where there are more  
lambardars than one, the opinion of the majority (unless there is some  
special provision to the contrary in the village-administration paper)  
shall prevail.<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 114; for Proceedings in Council, see *ibid*, Supplement, pp. 375, 408; *ibid*, Extra Supplement, dated 26th April, 1873, p. 8; and *ibid*, Supplement, 1873, pp. 1299 and 1319.<sup>2</sup> Act 16 of 1873 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the Tarai Parganas—see Vol. III, Appendix.<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.<sup>4</sup> The words "So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India; the rest of" were repealed by the Amending Act (12 of 1891), General Acts, Vol. IV.

4. Every person authorized to nominate to the office of village police-man shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district. Obligation to nominate

5. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate or by some officer authorized by him in that behalf. Discretion to appoint or reject nominee

6. (a) In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy. Power to Magistrate to appoint

6. (a) In default of such nomination within the said fifteen days, the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post, and in default of such nomination, or if such nomination has been made but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy. Procedure in case of rejection of nominee.

### *III —Appointment of Road Police*

7. Subject to the rules to be framed under section 14, and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road police of his district. Appointment of road police

### *IV —Duties of Village and Road Police*

8. Every village policeman and every road policeman shall perform the following duties — Duties of village and road police men

(a) he shall give immediate information to the officer in charge of the police station appointed for his village or beat—

(1) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukdar, or within his beat,

(2) of each of the following offences occurring in such village or on such beat (that is to say), murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences

(b) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray

- (c) he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (a), clause (2), of this section:
- (d) he shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat:
- (e) he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood:
- (f) he shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on  
arrest by  
village or  
road-policeman.

9. Whenever a village-policeman or road-policeman arrests any person, he shall take him, as soon as possible, to the police-station within the jurisdiction of which his village or beat is situate.

#### V.—Liabilities of Village and Road Police.

Dismissal of  
village or  
road-policeman.  
Acts punishable.

10. The Magistrate of the district may dismiss any village-policeman or road-policeman for any misconduct or neglect of duty.

11. Every village-policeman and every road-policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,<sup>1</sup>

Act  
1860

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections 3 and 7 (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section 14, and for the time being in force,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months or to both.

Fines to be  
credited to  
such fund as  
Government  
appoints.

12. All fines levied under this Act on village-policemen or road-policemen shall be credited to such fund as the Local Government from time to time appoints.

<sup>1</sup> General Acts, Vol. I.

*VI.—Miscellaneous.*

13. All orders of, and appointments made by, the Magistrate of the district under section 5, 6, 7 or 10 shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate.

Orders of Magistrate of district subject to control of Commissioner. Power to make subsidiary rules

14. The Local Government may from time to time frame rules<sup>1</sup>—

- (a) for the discipline of the village and road-police;
- (b) for regulating their numbers, location and duties; and
- (c) for carrying out generally the purposes of this Act.

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## THE OUDH LAWS ACT, 1876.

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- 3. Statutory law to be administered in Oudh.
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THE FIRST SCHEDULE

THE SECOND SCHEDULE.

ACT No. XVIII OF 1876.<sup>1</sup>

## THE OUDH LAWS ACT, 1876.

[APPLIES TO THE PROVINCE OF OUDH.]

[10th October, 1876.]

An Act to declare and amend the laws to be administered in Oudh.

Preamble. WHEREAS it is expedient to declare and amend the laws to be administered in Oudh; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

- Short title. 1. This Act may be called the Oudh Laws Act, 1876.
- Local extent. It extends only to the territories for the time being under the administration of the <sup>2</sup>Chief Commissioner of Oudh;
- Commence- and it shall come into force on the passing thereof.
- ment. 2. The Regulations, Acts, Rules and Orders mentioned or referred
- Repeal of to in the first schedule hereto annexed shall be repealed to the extent
- enactments. mentioned in the third column of the said schedule.

## PART II.

## GENERAL LAWS TO BE ADMINISTERED IN OUDH.

- Statutory law to be administered in Oudh. 3. The law to be administered by the Courts of Oudh shall be as follows:—

(a) the laws for the time being in force regulating the assessment and collection of land-revenue:

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 493; for Report of the Select Committee, see *ibid*, 1876, Pt. V, p. 710; and for Proceedings in Council, see *ibid*, 1871, Supplement, p. 1007; *ibid*, 1873, Extra Supplement, p. 17; *ibid*, 1876, Supplement, pp. 821, 1085 and 1097.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.



(b) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be—

- (1) any custom applicable to the parties concerned which is not contrary to justice, equity or good conscience, and has not been, by this or any other enactment, altered or abolished, and has not been declared to be void by any competent authority,
- (2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to
- (c) the rules contained in this Act
- (d) the rules published in the local official Gazette as provided by section 40, or made under any other Act for the time being in force in Oudh
- (e) the Regulations and Acts specified in the second schedule hereto annexed, subject to the provisions of section 4, and to the modifications mentioned in the third column of the same schedule
- (f) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh
- (g) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience

4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority

Validity of  
local customs  
and mercan-  
tile usages

### PART III.

#### CHAPTER I

##### DOWER AMONG MUHAMMADANS

5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the Muhammadan

Muhamma  
dan dower

ACT No. XVIII OF 1876.<sup>1</sup>

THE OUDH LAWS ACT, 1876.

[APPLIES TO THE PROVINCE OF OUDH.]

[10th October, 1876.]

An Act to declare and amend the laws to be administered in Oudh.

Preamble. WHEREAS it is expedient to declare and amend the laws to be administered in Oudh; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

- Short title. 1. This Act may be called the Oudh Laws Act, 1876.
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- Commence- and it shall come into force on the passing thereof.
- ment. 2. The Regulations, Acts, Rules and Orders mentioned or referred
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PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

- Statutory law 3. The law to be administered by the Courts of Oudh shall be as
- to be ad- follows:—
- ministered in (a) the laws for the time being in force regulating the assessment
- Oudh. and collection of land-revenue:

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 493; for Report of the Select Committee, see *ibid*, 1876, Pt. V, p. 710; and for Proceedings in Council, see *ibid*, 1871, Supplement, p. 1007; *ibid*, 1873, Extra Supplement, p. 17; *ibid*, 1876, Supplement, pp. 821, 1085 and 1097.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

- 2ndly, to co sharers of the whole mahal in the same order,  
 3rdly, to any member of the village community, and  
 4thly, if the property be in under proprietary tenure, to the proprietor

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot

10 When any person proposes to sell any property or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage as the case may be Not to be to pre-emptors

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate and shall be deemed sufficiently given if it be stuck up on the chaupal or other public place of the village or city in which the property is situate

11 Any person having a right of pre-emption in respect of any property proposed to be sold shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell Loss of right of pre-emption

12 When the right of pre-emption arises in respect of the foreclosure of a mortgage any person entitled to such right may at any time within three months after the giving of the notice required by section 10, pay or tender to the mortgagee or his successor in title the amount specified in such notice and shall thereupon acquire a right to purchase the property Right of pre-emptor on foreclosure

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice together with interest on the principal sum secured by the mortgage at the rate specified by the instrument of mortgage for any time which has elapsed since the date of the notice and any additional costs which may have been properly incurred by the mortgagee or his successor in title

13 Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely) — Suit to enforce right of pre-emption

- (a) that no due notice was given as required by section 10,
- (b) that tender was made under section 11 or section 12 and refused,
- (c) in the case of a sale that the price stated in the notice was not fixed in good faith,

contracts how husband, the entire sum provided in the contract shall not be awarded to be enforced. in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife.

Rule applicable after husband's death.

This rule shall be applicable whether the suit to enforce the contract be brought in the husband's lifetime or after his death.

## CHAPTER II.

### PRE-EMPTION.

Right of pre-emption.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons.

Presumption as to its existence.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed—

(a) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the cases referred to in section 40 of the Oudh Land-revenue Act,<sup>1</sup> XVII and

(b) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

Its existence in towns to be proved.

8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein and to be exerciseable therein by such persons and under such circumstances as the local custom prescribes.

Devolution of right when property to sold or foreclosed is a proprietary or under-proprietary tenure.

9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs in the absence of a custom to the contrary,—

1st, to co-sharers of the sub-division (if any) of the tenure in which the property is comprised, in order of their relationship to the vendor or mortgagor;

<sup>1</sup> See now the United Provinces Land-Revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, Vol. II.

19. Section 172 of Act No VIII of 1859 is hereby repealed, so far as the province of Oudh is concerned, and the following section is substituted therefor — Rules for taking evidence.

“ On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge

“ A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case

“ If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given

“ It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it

“ If any question put to a witness be objected to by either of the parties or their pleaders and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection

“ The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination

“ If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record ”

<sup>2</sup>[20 So much of section 60 of the Code of Civil Procedure, 1908,<sup>3</sup> as renders land liable to sale in execution of a decree shall be subject to the following restriction —No ancestral land shall be sold in satisfaction of a decree without the permission of the Lieutenant Governor Execution sale of ancestral and acquired property in land

*Explanation* —In this section the words “ ancestral land ” mean—

(a) land forming a mahal or share in or portion of a mahal, which has been owned continuously from the conclusion of the

<sup>1</sup> See now ss 181 to 190 both inclusive of the Code of Civil Procedure (Act 5 of 1908), General Acts Vol VI

<sup>2</sup> Section 20 was substituted by s 2 of the Oudh Laws (Amendment) Act 1912 (U P Act 3 of 1912), *infra* Vol II

<sup>3</sup> General Acts Vol VI

(d) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Courts find that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a mortgage, the Court find that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

Decree to fix time for payment.

14. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Effect of non-payment of purchase-money.

15. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or mortgage, lose his right of pre-emption over the property to which the decree relates.

### CHAPTER III.

#### PROCEDURE OF THE COURTS.

Rule of limitation

16. The Judicial Commissioner's Circular No. 104 of July, 1860, shall be held to have been a notification within the meaning of section 24 of Act XIV of 1859,<sup>1</sup> and such Act shall be deemed to have been in force in Oudh from the fourth day of July, 1862; and all orders and decrees passed under the rules contained in the said Circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868)<sup>2</sup> with regard to the limitation of suits under that Act.

17. [Act XXXII of 1871, s. 28, to cease in any district from date of notification that it is no longer under settlement.] Rep. Act XII of 1891.

18. [Recognized agents.] Rep. Act XII of 1891.

<sup>1</sup> See now the Limitation Act, 1908 (9 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> Act 19 of 1868 was repealed by the Oudh Rent Act, 1886 (22 of 1886), s. 2, *infra*.

27. With the sanction of the Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure<sup>1</sup>—

Power to make rules for custody and sale of attached property.

- (a) for the custody and sale of moveable property attached in execution of decrees,<sup>2</sup>
- (b) for the levy of a fee or commission on the sale of attached property and the disposal of the funds accruing from such fees,
- (c) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody and sold,
- (d) as to the appointment and remuneration of persons by whom local investigations under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure<sup>1</sup> are to be made

28. [*Power to revise decrees and orders of subordinate Courts*]  
*Rep Act XIII of 1879*

## CHAPTER IV

### VILLAGE AND ROAD POLICE

29. The nomination to the post of village policeman shall be made by the zamindar of the village, or, where there are more zamindars than one, by the lamhardar as their representative, and, where there are more lambardars than one, the opinion of the majority (unless there is some special provision to the contrary in the village administration paper) shall prevail

Right to nominate village policeman

30. Every person authorised to nominate to the office of village policeman shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district

Obligation to nominate

31. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorised by him in that behalf

Discretion to appoint or reject nomination

32. In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy

Power to Magistrate to appoint

<sup>1</sup> See now Act 5 of 1903 General Acts Vol VI

first regular settlement by the proprietor, which term shall include an under-proprietor as defined in section 4, clause (15), of the United Provinces Land Revenue Act, 1901,<sup>1</sup> U. P. or by the person or persons from whom such proprietor has<sup>2</sup> of 11 directly or indirectly inherited such land:

- (b) land forming an estate or part of an estate as defined in the Oudh Estates Act, 1869<sup>2</sup>;
- (c) land conferred by the British Government as a reward for services rendered to the State on the owner or on a person from whom such owner has directly or indirectly inherited such land; or
- (d) the interest of the holder of a grant of land revenue conferred by the British or any former Government on him or on a person from whom he has directly or indirectly inherited such interest.]

21. [*Appointment of manager of land attached.*] Rep. Act XIII of 1879.

Service of  
process with-  
in jurisdiction  
of Lucknow  
Civil Court.

22. Notwithstanding anything contained in the said Code, any Civil Court sitting within the local limits of the jurisdiction of the Lucknow Civil Court, but exercising jurisdiction beyond such limits, may cause summonses, warrants, notices and other processes to be served within the local limits of the jurisdiction of the Lucknow Civil Court without causing the same processes to be served through such Court.

23. [*Section substituted for Act XIX of 1868, s. 109.*] Rep. Act XXII of 1886.

24. [*Section substituted for Act XIX of 1868, s. 118.*] Rep. Act XXII of 1886.

25. [*Right of occupancy in judgment-debtor's sir-land.*] Rep. Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act IV of 1901).

Revenue  
Agents au-  
thorised to  
appear, &c.,  
in rent-suits.

26. Notwithstanding anything contained in Act No. XX of 1865,<sup>3</sup> all persons duly admitted and enrolled as Revenue-agents under that Act in the territories for the time being under the administration of the Chief Commissioner of Oudh may appear, plead and act in suits under the Oudh Rent Act<sup>5</sup> in the Courts of officers exercising the powers of Assistant Collectors, Deputy Collectors, Collectors and Commissioners under the same Act.

<sup>1</sup> *Infra*, Vol. II.

<sup>2</sup> *Supra*.

<sup>3</sup> See now the Legal Practitioners Act, 1879 (18 of 1879), General Acts, Vol. III.

<sup>4</sup> See footnote to s. 1, *supra*.

<sup>5</sup> See the Oudh Rent Act, 1886 (22 of 1886), *infra*.



36 The Magistrate of the district may dismiss any village-policeman or road policeman for any misconduct or neglect of duty

Dismissal of  
village or  
road police  
men

Where any village policeman is guilty of neglect of duty or other misconduct, the person authorised to nominate to his office may report him for dismissal to the Magistrate of the district, and such Magistrate shall dismiss him accordingly, unless the Magistrate has reason to think that such dismissal would be improper

37 Every village policeman and road policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,<sup>1</sup>

Acts punish  
able

or withdrawing from the duties of his office without permission and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorised to nominate or appoint under sections 29, 32 and 33 (as the case may be),

or offering any unnecessary personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months, or to both

Penalty

38 All fines levied under this Act on village policemen or road policemen shall be credited to such fund as the Local Government from time to time appoints

Fines to be  
credited to  
such fund as  
Government  
appoints

## CHAPTER V

### SUBSIDIARY RULES

39 The <sup>2</sup>Chief Commissioner may, from time to time, \* \* \* <sup>3</sup>Power to make rules consistent with this Act as to—

make rules

- (a) the discipline and remuneration of the village and road police and the regulation of their number, location and duties,
- (b) the disposal of unclaimed property under Act No V of 1861<sup>1</sup> (*for the regulation of Police*) sections 25, 26 and 27,
- (c) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies,
- (d) <sup>4</sup>imposing, with the previous sanction of the Governor General in Council, taxes for those purposes only,
- (e) the manner in which records, civil, criminal and revenue, shall be kept, the appointment and removal of the persons en-

<sup>1</sup> General Acts Vol I

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>3</sup> The words with the previous sanction of the Governor General in Council were repealed by the United Provinces Assumption of Powers Act (14 of 1878) s 5 *infra*

<sup>4</sup> For rules for the realization of the *Chaukidari* cess and payment of village watchmen, see U P Local Rules and Orders

Procedure in  
case of re-  
jection of  
nominee.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorised to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Appointment  
of road-  
police.

33. Subject to the rules to be framed under section 39 and for the time being in force, the Magistrate of the district may from time to time appoint persons to be the road-police of his district.

Duties of  
village and  
road-police-  
men.

34. Every village-policeman and every road-policeman shall perform the following duties:—

(a) he shall give immediate information to the officer in charge of the police-station appointed for his village or beat—

(1) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukidar, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say), murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass; and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences:

(b) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray:

(c) he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (a), clause (2), of this section:

(d) he shall observe and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat:

(e) he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood:

(f) he shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on  
arrest by  
village or  
road-police-  
man.

35. Whenever a village-policeman or road-policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

*Honorary Police-officers.*

44. The Chief Commissioner may, from time to time, confer on any person whom he thinks fit any power which may be exercised by a police-officer under any Act for the time being in force, and withdraw any power so conferred.

*Creation and Alteration of Districts and Sub-divisions.*

45. [Power to create new districts. Power to form sub-divisions of districts.] Rep. Act XX of 1890, s. 35.

## THE FIRST SCHEDULE.

(See section 2.)

Number and year	Title	Extent of repeal.
	All Bengal Regulations now in force in Oudh, except those specified in the second schedule.	The whole.
	and, except when expressly provided otherwise in this Act, all rules, laws and regulations made for or extended to the Province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils Act *	The whole
	Government Notification No 4325 of 6th August, 1861	The whole
<sup>2</sup> XXI of 1857	Gambling	Sections 10 to 15. <sup>3</sup>
XIX of 1863	Partition	The whole
<sup>4</sup> XXXII of 1871	The Oudh Civil Courts Act	Section 31.

\* Now the Governor of the United Provinces of Agra and Oudh

<sup>2</sup> See now the Government of India Act, 1915 (5 & 6 Geo 5, ch 61)

<sup>3</sup> Only sections 10 to 15 of the Act were extended to Oudh by an executive order, see para. 19 of the Report of the Select Committee, dated 22nd July, 1876, Gazette of India, 1876, Part V, p 710

<sup>4</sup> Act 32 of 1871 has been repealed by the Oudh Civil Courts Act (13 of 1879) and the Oudh Rent Act (22 of 1886), *infra*

trusted with the custody of records, and all other matters connected with such custody \* \* \* \* \*,<sup>1</sup>

(f) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the <sup>2</sup>[Oudh Land-revenue Act, 1876];

(g)

\*

\*

\*

\*3

X  
18

<sup>4</sup>[Provided that the previous sanction of the Governor General in Council which is required by clause (d) shall not be necessary in the case of any tax which, under rules made under clause (a) of subsection (3) of section 80A. of the Government of India Act, may be imposed, for the purpose of the Local Government, by any law made by the local legislature without the previous sanction of the Governor General.]

Publication  
of rules.

40. All rules made by the <sup>5</sup>Chief Commissioner under section 39, and all rules made by the Judicial Commissioner under section 27, shall be published in the local official Gazette, and shall thereupon have the force of law.

41. [*Continuance of prior rules as to matters for which rules may be made under the Act.*] Rep. Act XII of 1891.

Penalty for  
breach of  
rules.

42. Whoever breaks any rule made or continued under this Act, not being a rule made by the Judicial Commissioner, shall, on conviction before a Magistrate, be punishable with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to six months, or with both.

## CHAPTER VI.

### MISCELLANEOUS.

#### *Honorary Civil Jurisdiction.*

43. [*Power to invest taluqdars with civil jurisdiction.*] Rep. Act XIII of 1879.

<sup>1</sup> The words "and the destruction from time to time of such records as it may be deemed unnecessary to keep" were repealed by the Destruction of Records Act, 1879 (3 of 1879).

<sup>2</sup> These words and figures at the end of clause (f) of s. 39 were substituted for the words "Oudh Revenue Act" by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV. See now the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, Vol. II, by which Act 17 of 1876 has since been repealed.

<sup>3</sup> Clause (g) was repealed by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, Vol. II. It was as follows: "(g) the extent of land in respect of which a proprietor of under-proprietor is to be held, under section 25, to be a tenant with right of occupancy."

<sup>4</sup> This proviso was inserted by the Devolution Act, 1920 (38 of 1920).

<sup>5</sup> Now the Governor of the United Provinces of Agra and Oudh.

## THE SECOND SCHEDULE—continued.

## PART I.—BENGAL REGULATIONS—continued.

Number and year.	Subject.	Modifications.
		<p>In sections 2 and 3, for "the Company's territories" read "Oudh."</p> <p>In section 2 omit the last sentence.</p> <p>In section 4, clause Third, for "Governor General in Council" read "Chief Commissioner."</p> <p>In section 5, omit "the Company's." ***</p> <p>In section 6, for "Magistrate" read "Deputy Commissioner," and for "on the part of the Collector" read "by the Deputy Commissioner."</p> <p>In section 8, for "the Company's provinces" read "Oudh." * * * *</p>
***	***	* * * *
III of 1818 <sup>1</sup>	State Prisoners	<p>In section 1, omit "situated within the territories dependent on the Presidency of Fort William," and from "which are to take effect," to the end of the section</p> <p>In section 2, clause Third, omit "within territories subject to the Presidency of Fort William"</p> <p>In section 4, omit clause First.</p> <p>In the same section, clause Second, for "Zillah or City Magistrate" read "Deputy Commissioner," and for "Judge of Circuit" read "Commissioner of Division"</p> <p>In section 9, for "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" read "and to the Judicial Commissioner."</p> <p>Omit section 10</p>
***	*****	* * * *
XI of 1822 <sup>4</sup>	Non-liability of Government for errors of a Court of Justice.	Omit the whole except section 38

<sup>1</sup> The words "for 'Board of Revenue' read 'Commissioner'" in the modifications to Bengal Reg 11 of 1806, were repealed by the United Provinces Act, 1890 (20 of 1890),

<sup>2</sup> *Supra*

<sup>3</sup> The words and figures " (under the rules prescribed Regulation 27 of 1803" were repealed by the Acts, Vol. IV.

<sup>4</sup> Section 17 of 1806 was repealed by the Transfer of 1 Acts, Vol. III, the entry relating to Bengal Act, 1839 (13 of 1839), and the entry relating to in Treasure Trove Act, 1878 (6 of 1878), General Acts, Vol. II.

<sup>5</sup> *Supra*.

<sup>6</sup> The entry relating to Bengal Regulation 6 of 1819 was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

## THE SECOND SCHEDULE.

(See section 3.)

## PART I.—BENGAL REGULATIONS.

Number and year.	Subject.	Modifications.
XXXIII of 1803 <sup>1</sup> .	Embezzlement by Native Officers.	<p>In section 1 and in section 2, clause <i>First</i>, before “sezawals,” insert “tahsildars.”</p> <p>In section 2, after the first clause insert “<i>Second</i>.—The responsibility of the sureties of tahsildars extends to the several cases provided for in this Regulation.”</p> <p>In section 3, for “Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him,” read “District where he shall be detained;” for “real or personal” read “moveable or immoveable;” * * *<sup>2</sup>, * * *<sup>3</sup> and omit the words, and figures “and the rules in Regulation XXVII, 1803, regarding suits so carried on by the Collectors are to be held applicable to it.” * * * *<sup>2</sup></p> <p>Omit section 8.</p>
X of 1804 <sup>1</sup> . . .	Punishment by Courts-martial of certain State offences.	<p>Omit section 1.</p> <p>In section 2, for “the British territories subject to the Government of the Presidency of Fort William” read “the territories under the administration of the Chief Commissioner of Oudh.”</p> <p>In section 3, for “real and personal” read “moveable or immoveable.”</p>
XI of 1806 <sup>1</sup> . . .	Assistance to troops and travellers passing through districts.	<p>Omit sections 1, 7, 9 to 20 (both inclusive), and so much of the rest of the Regulation as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their officials aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers.</p> <p>For “Collectors of Revenue” and “Collector” read “Deputy Commissioner” throughout the Regulation.</p>

<sup>1</sup> *Supra*.<sup>2</sup> The words “for ‘city’ read ‘jurisdiction’” and at the end of these modifications to Reg. 33 of 1803 the words and figures “In section IV, omit the words ‘or in either of the cities of Patna, Dacca and Moorshedabad’” were repealed by the Amending Act, 1891 (12 of 1891), see Sch. I, General Acts, Vol. IV.<sup>3</sup> The words “for ‘Board of Revenue’ read ‘Commissioner’” in the modifications to Bengal Reg. 33 of 1803 were repealed by the United Provinces Act, 1890 (20 of 1890), s. 35, *infra*.

## THE SECOND SCHEDULE—continued.

## PART I.—BENGAL REGULATIONS—continued.

Number and year.	Subject.	Modifications.
		In sections 2 and 3, for "the Company's territories" read "Oudh." In section 2 omit the last sentence. In section 4, clause Third, for "Governor General in Council" read "Chief Commissioner." In section 5, omit "the Company's." *** In section 6 for "Magistrate" read
		In section 8, for "the Company's provinces" read "Oudh." ***
III of 1818 <sup>1</sup>	State Prisoners	In section 1, omit "situated within the territories dependent on the Presidency of Fort William," and from "which are to take effect." to the end of the section In section 2, clause Third, omit "within territories subject to the Presidency of Fort William" In section 4, omit clause First. In the same section, clause Second, for "Zillah or City Magistrate" read "Deputy Commissioner," and for "Judge of Circuit" read "Commissioner of Division" In section 9, for "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" read "and to the Judicial Commissioner." <sup>2</sup> Omit section 10
XI of 1822 <sup>4</sup>	Non-hability of Government for errors of a Court of Justice.	Omit the whole except section 38

<sup>1</sup> The words "for 'Board of Revenue' read 'Commissioner'" in the modifications to Bengal Reg 11 of 1806, were repealed by the United Provinces Act, 1890 (20 of 1890), s. 38, *infra*

<sup>2</sup> The words and figures "and omit the words and figures" (under the rules prescribed in section 27 of 1805) were repealed by the Vol. IV.

of 1806 was repealed by the Transfer of Vol. III, the entry relating to Bengal 89 (13 of 1839), and the entry relating to the Trove Act, 1878 (6 of 1878), General

THE SECOND SCHEDULE—*continued*.PART I.—BENGAL REGULATIONS—*concluded*.

Number and year.	Subject.	Modifications.
VI of 1825 <sup>1</sup> . .	Supply of troops on the march.	In the preamble, <i>omit</i> the last twenty words. In section 2, <i>omit</i> "in pursuance of section III, Regulation XI, 1806," and <i>omit</i> "sicca." In section 4, <i>for</i> "Board of Revenue in whose jurisdiction the district may be situate" and "Board" <i>read</i> "Commissioner." In section 5, <i>omit</i> "on the stamped paper prescribed for other appeals to the Revenue Boards" and <i>for</i> "the proper Board" and "the Board" <i>read</i> "the Commissioner."
XI of 1825 <sup>1</sup> . .	Alluvion and Diluvion.	<i>Omit</i> section 1. In section 3, <i>omit</i> "either" and "or the sea." In section 4, clause <i>First</i> , <i>omit</i> "whether" and "or of the sea," and <i>for</i> "the provisions of Regulation II, 1819, or of any other Regulation in force," <i>read</i> "any law in force for the time being;" clause <i>Third</i> , <i>omit</i> "or in the sea" and "or sea;" clause <i>Fifth</i> , <i>omit</i> "or the sea." In section 5, <i>for</i> "Zillah and City Magistrates" <i>read</i> "Deputy Commissioners."
* . *	* . *	* . * 2

## PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

* * * *	* * * * *	** * * * 3
XX of 1856 <sup>4</sup> .	Chaukidars . .	In the preamble, <i>after</i> "Bengal" <i>add</i> "and the territories under the administration of the Chief Commissioner of Oudh." <i>Omit</i> the words "of circuit" wherever they occur after "Commissioner." <i>Omit</i> section 40.

<sup>1</sup> *Supra*.<sup>2</sup> The entry relating to Bengal Regulation 20 of 1825 was repealed by the Criminal Procedure Code, 1882 (Act 10 of 1882). See now Act 5 of 1893, Genl. Acts, Vol. V.<sup>3</sup> The entry relating to Act 19 of 1853 was repealed by the Amending Act, 1903 (1 of 1903), Genl. Acts, Vol. III.<sup>4</sup> Act 20 of 1856 has been repealed in the United Provinces by the U. P. Act 2 of 1914, *infra*, Vol. II.



THE SECOND SCHEDULE—*continued.*PART II—ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concluded.*

Number and year	Subject	Modifications
XIII of 1857 <sup>1</sup>	Opium	In the title, after 'the Presidency of Fort William in Bengal' read 'and the territories under the administration of the Chief Commissioner of Oudh' * * *
* * *	* * * * *	In section 3, omit "being covenanted servants of the Company" * * *
XXII of 1871 <sup>4</sup>	Chaukidars	In section 1, after "Presidency" insert "or territories" In section 3, omit the words "of circuit" Omit section 6

ACT No XIV OF 1878<sup>5</sup>

[APPLIES TO THE UNITED PROVINCES.]

[1st August, 1878.]

## An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh

WHEREAS the Lieutenant-Governorship of the North-Western Provinces and the 'Chief Commissionership of Oudh are now united under the administration of a single officer, and whereas it is expedient that, so long as such union continues, the powers of the Local Government of Oudh under the enactments hereinafter mentioned should resemble the powers of the Local Government of the North-Western Provinces under

<sup>1</sup> *Supra*

The portion which related to s 2 of Act 13 of 1857 here omitted was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol IV

<sup>3</sup> The entry relating to the Mines Act, 1853 (40 of 1853), was repealed by the Guardian and Wards Act, 1890 (8 of 1890), General Acts, Vol IV<sup>4</sup> Act 22 of 1871 was repealed in the United Provinces by the Repealing and Amending Act, 1919 (18 of 1919)<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1878, Pt V p 43, and for Proceedings in Council, see *ibid*, Supplement, pp 138, 203 and 1294<sup>6</sup> Now the Governor of the United Provinces of Agra and Oudh

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*Northern India Ferries.* [1878: Act XVII.

the same or like enactments \* \* \* \* \*<sup>1</sup>; It is hereby enacted as follows:—

1. [*Omissions from Act XIX of 1868, ss. 29, 85, 87 and 91.*] *Rep. Act XXII of 1886.*

2. [*Alteration of Act XXVI of 1870, section 6.*] *Rep. Act IX of 1894.*

3. [*Alteration of Act XXXII of 1871.*] *Rep. Act XIII of 1879.*

4. [*Omissions from Act XVII of 1876.*] *Rep. Act XX of 1890, s. 21 (2), and Act XII of 1891.*

5. [*Omissions from Act XVIII of 1876, s. 39.*] *Rep. Act XX of 1890, s. 35, and Act XII of 1891.*

Modification of Act V of 1871, sections 30 and 31, and Act V of 1876  
6. For the purpose of the Prisoners Act, 1871,<sup>2</sup> sections 30 and 31, V of 1871, sections 30 and 31, and Act V of 1876  
and of the Reformatory Schools Act, 1876,<sup>3</sup> the North-Western Provinces and Oudh shall be deemed to be subject to the same Local Government.<sup>4</sup>

7. [*Validation clause.*] *Rep. Act XII of 1891.*

8. [*Commencement and continuance of Act.*] *Rep. Act XII of 1891.*

## THE NORTHERN INDIA FERRIES ACT, 1878.

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<sup>1</sup> The words "and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts" were repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

<sup>2</sup> Repealed (except as to s. 15) by the Prisoners Act, 1900 (3 of 1900), General Acts, Vol. V.

<sup>3</sup> See now Act 8 of 1897, General Acts, Vol. IV.

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ACT No. XVII OF 1878.<sup>1</sup>

## THE NORTHERN INDIA FERRIES ACT, 1878.

[APPLIES TO THE UNITED PROVINCES.]

[9th November, 1878.]

## An Act to regulate Ferries in Northern India.

Preamble.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmer and Merwára; It is hereby enacted as follows:—

## I. PRELIMINARY.

Short title.

1. This Act may be called the Northern India Ferries Act, 1878.

Local extent.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh,<sup>2</sup> the Central Provinces, Assam and Ajmer and Merwára.

Commence-  
ment.

It shall come into force<sup>3</sup> in each of the said territories on such date as the Local Government may, by notification in the Official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Interpreta-  
-on-clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 135; for Preliminary Report of the Select Committee, see *ibid*, p. 210; for Proceedings in Council, see *ibid*, Supplement, pp. 286, 325, 1104 and 1194. -

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> The Act was brought into force in the United Provinces of Agra and Oudh on 1st January, 1879, see North-Western Provinces and Oudh Gazette, 1878, Pt. I, p. 2035.

## II PUBLIC FERRIES

## 4 The Local Government may from time to time—

- (a) declare what ferries shall be deemed public ferries,<sup>1</sup> and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate,
- (b) take possession of a private ferry and declare it to be a public ferry,
- (c) establish new public ferries<sup>1</sup> where, in its opinion, they are needed,
- (d) define the limits of any public ferry<sup>1</sup>,
- (e) change the course of any public ferry<sup>1</sup>, and
- (f) discontinue any public ferry which it deems unnecessary<sup>1</sup>

Power to declare or establish define and discontinue public ferries

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette

<sup>2</sup>[Provided that, when a river lies between two provinces, the powers conferred by this section shall in respect of such river, be exercised jointly by the Local Governments of those provinces by notifications in their respective official Gazettes, and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor General in Council]

Provided also that when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river such alteration may be made by order under his hand by the Commissioner of the division in which such ferry is situate or by such other officer as the Local Government may from time to time appoint by name or in virtue of his office in this behalf

5 Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf and submitted for the consideration and orders of the Local Government

Claims for compensation

6 The immediate superintendence of every public ferry shall, except as provided in section 7<sup>3</sup> [and section 7A] be vested in the Magistrate of the district in which such ferry is situate or in such other officer as the Local Government may, from time to time<sup>4</sup> appoint by name or in virtue of his office in this behalf

Superintendence of public ferries

<sup>1</sup>For public ferries established in United Provinces of Agra and Oudh—see U P Local Rules and Orders

<sup>2</sup>This proviso was substituted by the Devolution Act 1920 (38 of 1920)

<sup>3</sup>The words figure and letter and section 7A were inserted in s 6 by s 65 of the N W P and O dh Local Boards Act 1883 (14 of 1883) see footnote to s 7A *infra*

<sup>4</sup>For notification as to the superintendence of ferries see U P Local Rules and Orders

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality; **7.** The Local Government may<sup>1</sup> direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds paid into municipal fund. and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Management of ferries may be vested in committees and board. **7A.** The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh<sup>2</sup> may direct<sup>3</sup> that any public ferry, wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district, and thereupon such ferry shall be managed and such proceeds or part thereof shall be paid accordingly.

Letting ferry-tolls by auction. **8.** The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

<sup>1</sup> For notifications declaring that certain ferries may be managed by certain public bodies and the proceeds credited to their funds, see the U. P. Local Rules and Orders.

<sup>2</sup> S. 7A was inserted by the N.-W. P. and Oudh Local Boards Act, 1883 (14 of 1883), s. 64. Although Act 14 of 1883 has now been repealed by the U. P. District Boards Act, 1906 (U. P. Act 3 of 1906), s. 7A would appear to be kept in force in virtue of s. 42 (1) (i) of the latter Act, see *infra*, Vol. II.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> For notifications declaring that certain ferries may be managed by certain district boards, see the U. P. Local Rules and Orders.

<sup>5</sup> S. 8 was substituted by s. 1 of the Northern India Ferries (Amendment) Act, 1886 (3 of 1886), *infra*.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction

9 All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land revenue Recovery of arrears from lessee

10 The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease Power to cancel lease

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may with the previous sanction of the Local Government award

11 The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate subject to the approval of the Commissioner may in each case direct Surrender of lease

12 Subject to the control of the Local Government the Commissioner of a division, or such other officer as the Local Government may, from time to time appoint in this behalf by name or in virtue of his office may from time to time make rules<sup>1</sup> consistent with this Act— Power to make rules

(a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries,

[(b) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction and prescribing the persons by whom auction may be conducted]

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for, and

(d) generally to carry out the purposes of this Act, and when the tolls of a ferry have been let under section 8 such Commissioner or other officer may from time to time (subject as aforesaid) make additional rules consistent with this Act—

(e) for collecting the rents payable for the tolls of such ferries,

- (f) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same and
- (g) in cases in which the traffic is conveyed in boats, for regulating—
- (1) the number and kinds of such boats and their dimensions and equipment;
  - (2) the number of the crew to be kept by the lessee for each boat;
  - (3) the maintenance of such boats continually in good condition;
  - (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and
  - (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

13. <sup>1</sup>[Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry]:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase<sup>2</sup> the said distance of two miles to such extent as it thinks fit.

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats <sup>3</sup>[which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

<sup>1</sup> This paragraph was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*. The original paragraph ran as follows:—

“No person shall, except with the sanction of the officer charged with the superintendence of a public ferry, keep a ferry boat for the purpose of plying for hire to or from any point within a distance of two miles from the limits of such public ferry.”

<sup>2</sup> For such notification, see the U. P. Local Rules and Orders.

<sup>3</sup> These words were inserted by s. 2 (2) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*.



15 Tolls, according to such rates as are from time to time fixed by Tolls the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service

Provided that the Local Government may, from time to time declare that any persons, animals vehicles or other things shall be exempt from payment of such tolls

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the <sup>2</sup>[lease] shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office

16 The lessee or other person authorized to collect the tolls of any Table of tolls public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language and also if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls signed Last of tolls by the Magistrate of the district or such other officer as he appoints in this behalf

17 Except as provided by section 7 <sup>3</sup>[and section 7A], all tolls, rents Tolls rents and compensation received by or on behalf of Government, and all fines compensation and fines levied under this Act shall be disposed of as follows,<sup>4</sup> that is to say — disposed of

<sup>5</sup>(16) In the territories for the time being administered by the Lieutenant Governor of the United Provinces of Agra and

on the payment of tolls persons animals vehicles  
3 of the Indian Tolls (Army) Act 1901 (2 of 1901)  
al Acts Vol V

For rates and exemptions under s 15 in the United Provinces see the U P Local Rules and Orders

<sup>2</sup> The word lease was substituted for the word auction by the Northern India Ferries Act 1886 (3 of 1886) s 1 (3) *infra*

<sup>3</sup> The words figure and letter and section 7A were inserted by s 65 of the United Provinces Local Boards Act 1883 (14 of 1883) Act 14 of 1883 is now repealed by the United Provinces District Boards Act 1906 (U P Act 3 of 1906) but the reference to section 7A and the section itself would appear to be kept in force by s 42 (1) (i) of that Act *infra* Vol II

<sup>5</sup>  
as if this clause had  
U P Local Rates

(a)

shall be credited to the fund constituted for those territories by the North Western Provinces Local Rates Act 1878

(b) in the territories administered by the Chief Commissioner of Oudh the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act 1878

Oudh such tolls, rents, compensations, and fines shall be credited to the Local Government and applied, first to defraying all charges incurred in carrying out this Act in those territories, and then to assisting, in such manner as the Local Government may direct, the district fund of any district in which, or on the borders of which, any ferry is situate!

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Compounding  
for tolls.

18. The Local Government may, if it thinks fit, from time to time, fix rates at which any person may compound for the tolls payable for the use of a public ferry.

### III. PRIVATE FERRIES.

Power to  
make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

### IV. PENALTIES AND CRIMINAL PROCEDURE.

Penalty for  
breach of  
provisions as  
to table of  
tolls, list of  
tolls and  
return of  
traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for  
taking  
unauthorized  
toll, and for  
causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for  
breach of  
rules made  
under sec-  
tions 12 and  
19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

<sup>1</sup> Clauses (c) and (d) of s. 17 apply only to the Punjab, Central Provinces, Assam and Ajmer-Merwara, and are therefore not reprinted in this Code.

24 When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let

Cancelment of lease on default or breach of rules

25 Every person crossing by any public ferry, or using the approach to or landing place thereof, who refuses to pay the proper toll, and every person—

Penalties on passengers offending

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who after being warned by any such toll collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry boat or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave or remove any animals, vehicles or goods from, any such ferry boat or bridge, on being requested by such toll collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees

26 Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions

Penalty for maintaining private ferry within prohibited limits

27 Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee

Fines payable to lessee

28 Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred

Penalty for rash navigation and stacking of timber

<sup>1</sup> Substituted for the original section 26 by s 2 (5) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886) *infra*. The original section was as follows —

"Whoever conveys for hire any passenger animal vehicle or other thing in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees"

rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant. Power to try summarily.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII<sup>1</sup> of the Code of Criminal Procedure may try any offence against this Act in manner provided by that Chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the Division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

## V. MISCELLANEOUS.

Power to take possession of boats, etc., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this

<sup>1</sup> See now Chapter XXII of the Code of Criminal Procedure, 1898 (Act 5 of 1898), General Acts, Vol. V.

Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office.

36. [*Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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## THE OUDH CIVIL COURTS ACT, 1879.

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## THE OUDH CIVIL COURTS ACT, 1879.

[APPLIES TO THE PROVINCE OF OUDH.]

[30th July, 1879.]

An Act to amend the law relating to Civil Courts in Oudh.

WHEREAS it is expedient to amend the law relating to Civil Courts in Preamble.  
Oudh, It is hereby enacted as follows —

## CHAPTER I.

## PRELIMINARY

1. This Act may be called the Oudh Civil Courts Act, 1879.

Short title

It extends to all the territories for the time being administered by Local extent.  
the <sup>2</sup>Chief Commissioner of Oudh; and it shall come into force on the Commence  
first day of August, 1879 ment

2 [*Repeal of enactments*] *Rep Act XIV of 1891, s. 11 (2).*District  
defined

3 In this Act “district”<sup>2</sup> means the area comprised in the local  
limits of the jurisdiction of the District Judge

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India 1879, Pt V, p 746.  
for Proceedings in Council, see *ibid* Supplement, pp 435, 531 and 893

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

## CHAPTER II.

## CONSTITUTION OF COURTS.

Grades of  
Courts.

4. Besides the Courts established under any other enactment for the time being in force, there shall be four grades of Civil Courts in Oudh (namely):—

- (1) the Court of the Munsif;
- (2) the Court of the Subordinate Judge;
- (3) the Court of the District Judge;
- (4) the Court of the Judicial Commissioner.

Number of  
Judges.

5. The number of District Judges, Subordinate Judges and Munsifs to be appointed under this Act shall be <sup>1</sup>fixed, and may from time to time be altered, by the Local Government.

Appointment  
of officers  
under Act.

6. <sup>2</sup>[The Judicial Commissioner, the District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government.]

\* \* \* \* \*

Additional  
Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the Judicial Commissioner, \* \* \* <sup>3</sup>; appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a Judge under Chapter III of this Act that the District Judge may, with the sanction of the Judicial Commissioner, assign to them; and in the performance of such duties they shall exercise the same powers as the District Judge.

Temporary  
charge of  
office of  
District  
Judge.

8. In the event of the death of a District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station at which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the Subordinate Judge holding his Court at the same place, shall, without

<sup>1</sup> For Notification fixing the number of District Judges, Subordinate Judges and Munsifs, see U. P. Local Rules and Orders.

<sup>2</sup> This section was substituted by the Devolution Act, 1920 (38 of 1920); and the proviso to the original section 6 was repealed by the Oudh Courts Act, 1891 (14 of 1891), s. 11 (2), *infra*.

<sup>3</sup> The words "and with the previous sanction of the Governor General in Council" were repealed by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.



relinquishing his ordinary duties assume charge of the Judge's office at such station,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge, or assumed by an officer duly appointed thereto

9 In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control

Transfer of proceedings on death etc. of Subordinate Judge

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred

10 The Court of the District Judge shall be deemed to be the principal Civil Court of original jurisdiction in the district over which his jurisdiction extends

Principal Civil Court of original jurisdiction

The control over all the Civil Courts in such district is invested in the District Judge but subject to the general control of the Judicial Commissioner

Control over Civil Court

11 The Judicial Commissioner and the District Judges Subordinate Judges and Munsifs shall appoint the ministerial officers of their respective Courts

Appointment of ministerial officers of Courts

Provided that in the case of the Subordinate Judges and Munsifs, such appointments shall require the sanction of the District Judge, to whose control they are respectively subject

12 The Judicial Commissioner or any District Judge may transfer any ministerial officer from any Court under his control to any other Court under his control

Transfer of ministerial officers

13 Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government

Seals of Courts

14 The Local Government may fix and from time to time alter, the place or places at which any Court under this Act is to be held

Place of sitting of Courts

15 [Power to confer Munsifs jurisdiction] *Rep United Provinces Honorary Munsifs Act, 1896 (U P Act 2 of 1896) s 2 (1) 2*

## CHAPTER III.

## GENERAL JURISDICTION.

power to fix local limits of jurisdiction. 16. The Local Government shall, by notification in the official Gazette,<sup>1</sup> fix, and may by like notification from time to time vary, the local limits of the jurisdiction of any Civil Court or person invested with the powers of a Civil Court under this Act.

Extent of original jurisdiction of District Judge; 17. Subject to the provisions of the Code of Civil Procedure.<sup>2</sup> section 15<sup>3</sup> [and of any other enactment for the time being in force],

Subordinate Judge;

(a) the jurisdiction of a District Judge extends to all original suits cognizable by the Civil Courts;

(b) the jurisdiction of a Subordinate Judge extends to all suits in which the amount or value of the subject-matter in dispute does not exceed ten thousand rupees; and

Munsif.

(c) the jurisdiction of a Munsif extends to all suits in which such amount or value does not exceed<sup>4</sup> [one thousand rupees].

<sup>5</sup>The<sup>6</sup> [Judicial Commissioner] may, from time to time, <sup>7</sup>\* \* \* direct, by notification in the official Gazette,—

(a) with respect to any Munsif named therein, that his jurisdiction shall extend, subject as aforesaid, to all suits of such value, not exceeding two thousand rupees, as may be specified in the notification, or

(b) with respect to any Subordinate Judge named therein, that his jurisdiction shall extend, subject as aforesaid, to all original suits cognizable by the Civil Courts.

<sup>1</sup> For notifications issued under s. 16 in conjunction with ss. 5 and 14, see the U. P. Local Rules and Orders.

<sup>2</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>3</sup> These words were inserted by the United Provinces Act, 1890 (20 of 1890), s. 39, *infra*.

<sup>4</sup> These words were substituted for the words "five hundred rupees" by *ibid*.

<sup>5</sup> This paragraph was substituted for the original proviso by *ibid*.

That proviso ran as follows :—

"Provided that the Local Government may from time to time, by notification in the official Gazette, confer upon any Munsif, jurisdiction in suits in which the amount or value of the subject-matter in dispute exceeds five hundred rupees but does not exceed one thousand rupees, and may by like notification withdraw such jurisdiction."

Nothing in section 17 applies to Honorary Munsifs and Benches, see s. 13 of the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, Vol. II.

<sup>6</sup> These words were substituted for the words "Local Government" by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

<sup>7</sup> The words "on the recommendation of the Judicial Commissioner" were repealed by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

and may from time to time, by like notification, withdraw any jurisdiction so conferred.

18. (1) An appeal from a decree or order of a Subordinate Judge in an original suit or proceeding shall, when an appeal is allowed by law, lie—

Appeals from decrees and orders of Subordinate Judges and Munsifs.

(a) to the District Judge where the value of the suit in which, or in any proceeding arising out of which, the decree or order was made did not exceed five thousand rupees, and

(b) to the Judicial Commissioner in any other case.

(2) An appeal from a decree or order of a Munsif shall, when an appeal is allowed by law, lie to the District Judge.

(3) The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals from all or any of the decrees or orders of any Munsif shall be preferred to such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

19. Every District Judge may from time to time, subject to the orders of the Judicial Commissioner, refer to any Subordinate Judge under his control any appeals pending before him from the decrees and orders of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Power to refer to Subordinate Judge appeals from Munsifs.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

20. Appeals from the decrees and orders of District Judges and Additional Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the Judicial Commissioner.

Appeals from District and Additional Judges

21. [When Judicial Commissioner may receive second appeal.] *Rep. Act XIV of 1891, s. 11 (1).*

22. [Appeals from decrees, &c., passed before Act comes into force.] *Rep. Act XIV of 1891, s. 11 (2).*

23. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally inter-

Presiding officer of Court not to

original s 18 by the United Provinces Act, 1890

(2)

"Appeals from the decrees and orders of Munsifs and Subordinate Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Judge."

Provided that the Judicial Commissioner may from time to time, subject to such restrictions as he thinks fit, order that all or any of the appeals from the decrees and orders of a Munsif shall be preferred to such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly."

try suit, &c.,  
in which he  
is interested

ested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any proceeding connected with or arising out of such suit or appeal.

Mode of  
disposing of  
such suit, &c.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section 25 of the Code of Civil Procedure.<sup>1</sup>

<sup>2</sup>[In the event of an appeal being preferred from a judgment or order passed by a Judicial Commissioner or an Additional Judicial Commissioner in any other capacity, or in which he has any personal interest, the case shall be heard by the Additional Judicial Commissioner or the Judicial Commissioner as the case may be.]

## CHAPTER IV.

### SPECIAL JURISDICTION.

Power to  
invest with  
Small Cause  
Court juris-  
diction.

24. The <sup>3</sup>[Judicial Commissioner] may invest, within such local limits as <sup>3</sup>[he] from time to time fixes, any District Judge, Additional Judge or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of <sup>4</sup>[two hundred and fifty rupees]; and may, whenever it thinks fit, withdraw such jurisdiction from the Judge or Munsif so invested.

25. [*Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.*] *Rep. Act XIV of 1891, s. 11 (2).*

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> This paragraph was substituted by the Oudh Courts Act, 1891 (14 of 1891), s. 11 (3), *infra*.

The original paragraph was as follows:—

“In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interests he shall report the fact to the Local Government, which may transfer the case to the High Court of the North-Western Provinces for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal of the case.”

<sup>3</sup> The words “Judicial Commissioner” and “he” were substituted for the words “Local Government” and “it” by Pt. I of Schedule to the Décentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

<sup>4</sup> These words were substituted for the words “one hundred rupees” by s. 2 of U. P. Act 2 of 1912, *infra*, Vol. II.

Section 24 does not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, Vol. II.

26. [Disposal of proceedings so transferred ] *Rep. Act XIV of 1891,*  
s 11 (2)

27. For the purposes of the <sup>1</sup>Indian Divorce Act, the <sup>2</sup>[District Jurisdiction under Divorce Act Judge] shall, throughout the said territories to which this Act applies, be deemed to be the Commissioner of the Division

## CHAPTER V

### MISCONDUCT OF OFFICERS

28 The Judicial Commissioner may, with the previous sanction of the Governor General in Council, he suspended or removed by the Local Government

29 Any District Judge, Additional Judge, Subordinate Judge or Munsif may be suspended or removed by the Local Government

30 The Judicial Commissioner may, whenever he sees urgent necessity for so doing, suspend any Subordinate Judge or Munsif under his control

Whenever the Judicial Commissioner exercises this power, he shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit

31 Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the Local Government, through the Judicial Commissioner, a full report of the case, with the evidence (if any), and the Local Government shall make such order thereon as it thinks fit

32 The Judicial Commissioner may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary

33 The Judicial Commissioner, and, subject only to the general control of the Judicial Commissioner, the Judges of the District Courts, may remove or suspend the ministerial officers of such Courts, or fine them in an amount not exceeding one month's salary

<sup>1</sup> General Acts, Vol II

<sup>2</sup> These words were substituted for the words 'Judicial Commissioner' by the United Provinces Act, 1890 (20 of 1890), s 42, *infra*

Removal, etc.,  
of ministerial  
officers of  
Subordinate  
Judges' and  
Munsifs'  
Courts.

**34.** Any Subordinate Judge or Munsif may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Judicial Commissioner, may, on appeal or otherwise, reverse or modify every such order.

The Judicial Commissioner (or the District Judge within whose jurisdiction such Court is situate) may by order suspend or remove any such ministerial officer.

Recovery of  
fines.

**35.** Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

## CHAPTER VI.

### MISCELLANEOUS.

Petition-  
writers.

**36.** The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules<sup>2</sup>—

(a) declaring what persons shall be permitted to practise as petition-writers in the Civil Courts of Oudh; and

(b) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section shall be punished with fine which may extend to fifty rupees.

Bar of re-  
demption-  
suits when  
mortgage  
executed  
before 13th  
February,  
1844.

**37.** When a mortgagee shall under or by virtue of a mortgage executed before the thirteenth of February, 1844, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Redemption-  
suits not  
barred where  
fixed term  
for redemp-  
tion had not  
expired  
before 13th  
February,  
1856.

Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856: Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

<sup>1</sup> Section 34 does not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, Vol. II.

<sup>2</sup> For rules, see U. P. Local Rules and Orders.

38 Subject to such orders as may from time to time be issued by the Governor General in Council, and to the approval of the Local Government, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate to him

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly

39 [*Pending proceedings*] *Rep Act XIV of 1891, s 11 (2)*

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SCHEDULE — [*Acts repealed*] *Rep Act XIV of 1891, s 11 (2)*

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ACT No XIV of 1879<sup>1</sup>

THE HACKNEY CARRIAGE ACT, 1879

[APPLIES TO THE UNITED PROVINCES ]

[*5th September, 1879* ]

An Act for the regulation and control of hackney carriages in certain Municipalities and Cantonments

WHEREAS it is expedient to provide for the regulation and control of hackney carriages in certain municipalities and cantonments, It is hereby enacted as follows —

1 This Act may be called the Hackney carriage Act, 1879

Short title

[*Commencement*] *Rep by s 3 and Second Schedule of Act 17 of 1914* Saving

Nothing herein contained shall affect any power conferred by any law relating to municipalities,<sup>2</sup> or any rule made in exercise of any such power

2 In this Act—

“hackney carriage” means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered or plies for hire and

Interpretation clause

“committee” means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force

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<sup>1</sup> of India Pt V, p 52 and for and 1141

<sup>2</sup> Provinces of Agra and Oudh see s 2 of 1915, *infra*, Vol. II

Application  
of Act to  
municipali-  
ties.

3. <sup>1</sup>[The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioners of the Central Provinces], Assam, Ajmere and Coorg, may, by notification in the official Gazette,<sup>2</sup> apply this Act to any municipality in the territories administered by them respectively.

Power of  
committees  
to make  
rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law<sup>3</sup> for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Confirmation  
and publica-  
tion of rules.

Every rule made under this section shall, when confirmed by the <sup>4</sup>[Commissioner] and published for such time and in such manner<sup>5</sup> as the <sup>4</sup>[Commissioner] may, from time to time, prescribe, have the force of law:

Power of Lo-  
cal Govern-  
ment to  
rescind rules.

Provided that the <sup>4</sup>[Commissioner] may, at any time, rescind any such rule.

Power to  
make rules  
for canton-  
ments.

4. The Local Government of any of the said territories may, from time to time, \* \* \*,<sup>6</sup> make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it \* \* \* \* \*<sup>7</sup>

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to  
extend oper-  
ation of rule  
beyond limits  
of municipali-  
ty or canton-  
ment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned:

<sup>1</sup> The opening words of s. 3 were substituted for the words "the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma," by the Amending Act, 1903 (I of 1903), Genl. Acts, Vol. V. The United Provinces of Agra and Oudh have now a Governor.

<sup>2</sup> For notifications applying the Act to municipalities in the United Provinces, see the U. P. Local Rules and Orders.

<sup>3</sup> For the law relating to municipalities in the United Provinces, see the United Provinces Municipalities Act, 1916 (U. P. Act 2 of 1916), *infra*, Vol. II.

<sup>4</sup> This word was substituted for the words "Local Government" by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

<sup>5</sup> For notification defining manner of publication, see U. P. Local Rules and Orders.

<sup>6</sup> The words "subject to the control of the Governor General in Council" were repealed by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl. Acts, Vol. VIII.

<sup>7</sup> The words "and the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned," were repealed by the Cantonments Act, 1889 (13 of 1889). See now Act 15 of 1910, Genl. Acts, Vol. VII.



Provided that such extension shall be made, in the case of a municipality, with the sanction of the <sup>1</sup>[Commissioner], and, in the case of a cantonment situate in British India, subject to the control of the <sup>2</sup>[Local Government]

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality

6 The rules to be made under section 3 or section 4 may, among other matters,—

What rules under sections 3 and 4 may provide for

- (a) direct that no hackney carriage, or no hackney carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf,
- (b) direct that no person shall act as driver of a hackney carriage except under a license granted in that behalf,
- (c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor,
- (d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;
- (e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept,
- (f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension,
- (g) provide for the numbering of such carriages,
- (h) determine the times at which, and the circumstances under which, any person keeping a hackney carriage shall be bound to let or refuse to let such carriage to any person requiring the same,
- (i) appoint places or stands for hackney carriages, and prohibit such carriages waiting for hire except at such places,
- (j) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney carriage, and

<sup>1</sup> This word was substituted for the words "Local Government" by Pt I of Schedule to the Decentralization Act 1914 (4 of 1914) Genl Acts Vol VIII

<sup>2</sup> Substituted for the words "Governor General in Council" by the Devolution Act, 1920 (38 of 1920)

prescribe the minimum speed at which such carriages when hired by time shall be driven;

- (k) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;
- (l) require the owner or person in charge of any such carriage to keep a printed list of fares, in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;
- (m) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and
- (n) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment fund to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.<sup>1</sup>

The decision of any Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or Bench of Magistrates having jurisdiction in respect of such

<sup>1</sup> As to recovery of fines, see the General Clauses Act, 1897 (10 of 1897), s. 25, General Acts, Vol. IV.

dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or Bench for the purpose of making an application under that section. take him to Court.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

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## THE VACCINATION ACT, 1880. '

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ACT No. XIII of 1880.

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ACT No. XIII OF 1880.<sup>1</sup>

## THE VACCINATION ACT, 1880.

[APPLIES TO THE UNITED PROVINCES.]

[9th July, 1880.]

Preamble.

An Act to give power to prohibit inoculation and to make the vaccination of children compulsory in certain Municipalities<sup>2\*</sup> Cantonments<sup>3</sup> [and notified areas].

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory in certain municipalities<sup>2</sup> \* cantonments; <sup>3</sup>[and notified areas as defined in section 193 of the United Provinces Municipalities Act, 1900]; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Vaccination Act, 1880": and

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 80; for Report of Select Committee, see *ibid*, p. 205, and for Proceedings in Council, see *ibid*, 1879, Supplement, p. 1225, and *ibid*, 1880, Supplement, pp. 566, 1204.

The U. P. Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), *infra* Vol. II, is to be read with and deemed to form part of this Act.

As to inoculation in Kumaon and Garhwal and the Tarai Parganas to which it has been extended, see Act 24 of 1868, *supra*.

<sup>2</sup> The word "and" was repealed in the title, preamble and in section 1, by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), ss. 2, 3 and 4, respectively, *infra* Vol. II.

<sup>3</sup> The words "and notified areas" in the title, and in section 1, and the words "and notified areas as defined in s. 193 of the United Provinces Municipalities Act, 1916," in the preamble were inserted by *ibid*. The United Provinces Municipalities Act, 1900 (U. P. Act I of 1900), was repealed by U. P. Act 2 of 1916, *infra*, Vol. II.

it shall apply only to such municipalities<sup>1</sup> \* cantonments<sup>1</sup> [and Application. notified areas] situate in the territories administered respectively by the <sup>2</sup>Lieutenant-Governors of the North-Western Provinces and the Punjab, and the <sup>2</sup>Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided.

2 In this Act unless there is something repugnant in the subject or Interpretation clause context,—

(1) the expression "Municipal Commissioners" means a body of "Municipal Municipal Commissioners or a Municipal Committee constituted under Commis- sioners", the provisions of any enactment for the time being in force

(2) "parent" means the father of a legitimate child and the mother "parent" of an illegitimate child

(3) "guardian" includes any person who has accepted or assumed "guardian," the care or custody of any child

(4) "unprotected child" means a child who has not been protected "unprotected child" from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination

(5) "inoculation" means any operation performed with the object "inoculation" of producing the disease of small pox in any person by means of variolous matter

(6) "vaccination circle" means one of the parts into which a municipality<sup>1</sup> \* cantonment<sup>2</sup> [or notified area] has been divided under this vaccination-circle Act for the performance of vaccination

(7) "vaccinator" means any vaccinator appointed under this Act "vaccinator" to perform the operation of vaccination, or any private person authorized \* \* \* in manner hereinafter provided to perform the same operation, and includes a "Superintendent of vaccination"

(8) "vaccination season" means the "period from time to time fixed 'vaccination season.'" by the Local Government for any local area under its administration by

ious page.  
a and Oudh  
vinces, see the United Provinces  
II  
es Vaccination Law Amendment

Decentralization Act 1914 (4 of 1914), Genl Acts, Vol VIII  
led by Pt I of Schedule to the  
For list of notifications fixing vaccination periods for different municipalities and cantonments in United Provinces, see U P Local Rules and Orders

notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of  
Act to muni-  
cipalities.

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

<sup>2</sup>[3A. The Local Government may, by notification in the official Gazette, declare its intention to extend this Act to the whole or any part of a notified area.

Any inhabitant of such notified area or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.]

Extension to  
cantonments.

4. The Local Government may, <sup>3</sup>\* \* \* \* \* by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to  
withdraw  
local area  
from opera-  
tion of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality <sup>5</sup>[or notified area], or <sup>3</sup>\* \* \* any local area in a cantonment, from the operation of this Act.

<sup>1</sup> For list of notifications extending the Act to municipalities in United Provinces, see U. P. Local Rules and Orders.

<sup>2</sup> Section 3A was inserted by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 6, *infra*, Vol. II.

<sup>3</sup> The words "subject to the control of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920).

<sup>4</sup> For list of notifications extending the Act to cantonments in United Provinces, see U. P. Local Rules and Orders.

<sup>5</sup> The words "or notified area" were inserted by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 7, *infra*, Vol. II.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Prohibition of inoculation.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Inoculated persons not to enter, without certificate, local area subject to Act.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccination circles

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Vaccinators.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Superintendent of vaccination

8. The [Commissioner] may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Private vaccinators.

9. When any unprotected child, having attained the age of 6 months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Unprotected children to be vaccinated.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Vaccinator to vaccinate children, or deliver certificates of postponement.

10. The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

Inspection after vaccination.

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

11. When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be

Procedure when vaccination is successful.

<sup>1</sup> The word "Commissioner" was substituted for "Local Government" by Part I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl Acts, Vol VIII.

delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure  
when vaccin-  
ation is  
unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure  
when child is  
unfit for  
vaccination.

13. A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Renewal  
of postpone-  
ment  
certificates.  
Certificates  
of insuscepti-  
bility of  
successful  
vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

What lymph  
to be used.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be  
charged  
except by  
private  
vaccinator.  
Proviso.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of  
Superintend-  
ent of  
vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local



area under his superintendence have been vaccinated, and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice

Notice to parent or guardian neglecting to comply with Act

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the <sup>1</sup>Magistrate of the District, or such Magistrate as the Local Government or the <sup>1</sup>Magistrate of the District may from time to time appoint in this behalf, and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order

Order by Magistrate when notice not complied with

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Procedure when order not obeyed.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government

Magistrates to be non official Natives

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make <sup>2</sup>rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the <sup>3</sup>law for the time being in force, the <sup>4</sup>[Municipal] Commissioners make rules or bye laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the <sup>5</sup>[Commissioner] and published in the official Gazette, have the force of law

Power to make rules for municipalities

Provided that the <sup>5</sup>[Commissioner] may at any time rescind or modify any such rule

<sup>1</sup> Read District Magistrate, see the Code of Criminal Procedure (Act 5 of 1898), s 3 (2), Genl Acts, Vol V

<sup>2</sup> For rules for municipalities in United Provinces, see U P Local Rules and Orders.

<sup>3</sup> For the law relating to municipalities in the United Provinces of Agra and Oudh, see U P Municipalities Act, 1916 (U P Act 2 of 1916), *infra*, Vol II

<sup>4</sup> The word "Municipal" was inserted by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), Genl Acts, Vol VIII

<sup>5</sup> This word was substituted for the words "Local Government" by *ibid*

<sup>1</sup>[19A. When this Act has been applied to any notified area or any part thereof, the Local Government may, from time to time, make <sup>2</sup>rules consistent with this Act, for the proper enforcement of this Act within the limits to which it applies. Such rules, when published in the official Gazette, shall have the force of law.]

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, <sup>3</sup>\* \* \* \* \* make such <sup>4</sup>rules.

21. The rules to be made for any local area under section nineteen <sup>5</sup>[nineteen A] or twenty may, among other matters, provide for—

- (a) the division of such local area into circles for the performance of vaccination;
- (b) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;
- (c) the qualifications to be required of public vaccinators and Superintendents of vaccination;
- (d) the authority with which their appointment, suspension and dismissal shall rest;
- (e) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;
- (f) the distinguishing mark or badge to be worn by them;
- (g) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;
- (h) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;
- (i) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;
- (j) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;
- (k) the fee to be paid for vaccination with animal-lymph under section fifteen;
- (l) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

<sup>1</sup> Section 19A was inserted by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 8, *infra*, Vol. II.

<sup>2</sup> For rules for notified areas, see U. P. Local Rules and Orders.

<sup>3</sup> The words "subject to the control of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920).

<sup>4</sup> For rules applicable to cantonments in United Provinces, see U. P. Local Rules and Orders.

<sup>5</sup> The word and letter "nineteen A" were inserted by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 9, *infra*, Vol. II.

Power to  
make rules  
for canton-  
ments.

What rules  
under sec-  
tions 19 and  
20 may pro-  
vide for.

(m) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(n) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(o) the preparation of vaccination-reports and returns.

22. Whoever commits any of the undermentioned offences (that is to say):— Punishment  
of offences.

(a) violates the provisions of section six,

(b) neglects without just excuse to obey an order made under section eighteen,

(c) breaks any of the rules made under section nineteen<sup>1</sup> [nineteen A] or twenty, or

(d) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

<sup>1</sup> The word and letter "nineteen A" were inserted by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 10, *infra*, Vol. II.

Municipal  
funds to re-  
ceive fines  
and meet  
expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality <sup>1</sup>[or notified area] shall respectively be credited to and paid from the municipal fund, <sup>1</sup>[or notified area fund.]

ACT No. XIV OF 1881.<sup>2</sup>

[APPLIES TO THE PROVINCE OF AGRA.]

[11th March, 1881.]

An Act to amend Bengal Regulation VII of 1828.<sup>3</sup>

Preamble.

WHEREAS it is expedient to amend Bengal Regulation VII of 1828<sup>3</sup> (for amending the Provisions of Regulation XV of 1795, and for defining the Authority of the Raja of Benares in the Mahals therein referred to) in manner hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Benares Family Domains Act, 1881:

Commence-  
ment of Act.

And it shall come into force on such day<sup>4</sup> as the <sup>5</sup>Lieutenant-Governor of the North-Western Provinces may, by notification in the official Gazette, appoint in this behalf.

2. [Repeal of parts of Bengal Regulation VII of 1828.] Rep. Act XII of 1891.

New section  
substituted  
for section 3  
of Regulation  
VII of 1828.

3. In the same Regulation, for section 3 the following shall be substituted, namely:—

[Supra, p. 60.]

Amendment  
of section 7.

4. In the same Regulation, section 7, for the last twenty-two words the following shall be substituted, namely:—

[Supra, p. 63.]

Amendment  
of section 9.

5. In the same Regulation, section 9, for the words "the Regulations at present in force within the province of Benares" the words "the

<sup>1</sup> The words "or notified area" and the words "or notified area fund" were inserted in s. 23 by the United Provinces Vaccination Law Amendment Act, 1907 (U. P. Act 2 of 1907), s. 11, *infra*, Vol. II.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 768; for Proceedings in Council, see *ibid*, Supplement, p. 596; and *ibid*, 1881, p. 403.

<sup>3</sup> *Supra*.

<sup>4</sup> The 24th September, 1881, see North-Western Provinces and Oudh Gazette, 1881, Pt. 1, p. 424.

<sup>5</sup> Now the Governor of the United Provinces of Agra and Oudh.

enactments for the time being in force in the North Western Provinces" shall be substituted, and after the word "applicable" the words "and the Local Government, with the concurrence of the Maharaja, may direct" shall be inserted

6 To section 10 of the same Regulation the following clause shall be added, namely — Clause added to section 10

[*Supra*, p 64]

7. In the same Regulation, section 11, for the words and figures "Regulation XI, 1822," the words "the enactments for the time being in force in the North-Western Provinces" shall be substituted Amendment of section 11.

8. In the same Regulation, section 12, for the words "Boards of Revenue" the words "Commissioners of divisions and the Board of Revenue" shall be substituted; Amendment of section 12

and for the words "towards the Board" the words "towards the Commissioner" shall be substituted

9. In the same Regulation, section 13, for the words "Governor General in Council" the words "Board of Revenue" shall be substituted Amendment of section 13

10. In the same Regulation, section 16, for the words "a Native Commissioner shall be maintained by the Raja in each of the Parganas referred to in Regulation XV 1795," the following shall be substituted, namely — "a Native Commissioner, or two or three Native Commissioners, as the said Lieutenant Governor may, from time to time direct, shall be maintained by the Maharaja" Amendment of, and addition to section 16

And to the same section the following shall be added, namely —

[*Supra*, p 65]

11. In the same Regulation, section 21, for the words and figures "contained in Regulation XXIII, 1814," to the end of the section, the following shall be substituted, namely — "prescribed by the said Lieutenant Governor under section 22 of this Regulation" Amendment of section 21

12 For sections 22 to 26, both inclusive, of the same Regulation, the following sections shall be substituted, that is to say — Sections substituted for sections 22 to 26

[*Supra*, pp 66 & 67]

13. All orders heretofore passed by the Governor General in Council, or the Lieutenant Governor of the North-Western Provinces, or any other authority, regarding revisions of settlement or other matters Validation of past orders, etc.

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh

connected with the revenue administration of the tracts of territory mentioned in the preamble to 'Bengal Regulation VII of 1828 shall be deemed to have been passed in accordance with law; and no order or decision purporting to have been passed by any civil or revenue authority under the provisions of that Regulation shall be called in question in any Court.

14. [*Repeal of parts of Acts XIV and XV of 1874.*] *Rep. Act XII of 1891.*

Clause added  
to section 8  
of Act XV of  
1874.

15. In the Laws Local Extent Act, 1874,<sup>2</sup> section 8, after clause (j) XV of the following shall be inserted, namely:—

“(jj) extend to Pargana Bhadohi or Pargana Kera Mangror in the Mirzapur District, or to Pargana Kaswa Raja in the Benares District, any law not now in force therein;”

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## THE INDIAN EASEMENTS ACT, 1882.

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<sup>2</sup> General Acts, Vol. II.

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 ACT No V OF 1882 <sup>1</sup>

## THE INDIAN EASEMENTS ACT, 1882

[APPLIES TO THE UNITED PROVINCES ]

[17th February, 1882 ]

 An Act to define and amend the Law relating to Easements and  
 Licenses

WHEREAS it is expedient to define and amend the law relating to ease Preamble  
 ments and licenses, It is hereby enacted as follows —

## PRELIMINARY

1 This Act may be called the Indian Easements Act, 1882

Short title

It extends to the territories respectively administered by the Governor Local extent  
 of Madras in Council and the Chief Commissioners of the Central  
 Provinces and Coorg <sup>2</sup>

and it shall come into force on the first day of July 1882

Commence  
ment

2 Nothing herein contained shall be deemed to affect any law not Savings  
 hereby expressly repealed, or to derogate from—

- (a) any right of the Government to regulate the collection, reten-  
 tion and distribution of the water of rivers and streams  
 flowing in natural channels and of natural lakes and ponds,  
 or of the water flowing, collected, retained or distributed  
 in or by any channel or other work constructed at the public  
 expense for irrigation

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Gazette of India 1880 Pt V, p 494  
 V p 1021 and for Proceedings in  
 and *ibid* 1882, Supplement, p 172.  
 inces by Act 8 of 1881, *infra*

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(d) prescri  
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- ... (not being a license, in or over  
... which the Government, the public or  
... irrespective of other immovable  
... arising out of a relation created, before  
... the force.  
... Act or Regulation to sections 29 and 31  
... 1877, or to sections 27 and 28 of Act No  
... territories to which this Act extends, the real  
... of this Act.]

32. R<sup>2</sup>

33. S

34.

35.

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## CHAPTER I.

## OF EASEMENTS GENERALLY.

... is a right which the owner or occupier of certain land  
... for the beneficial enjoyment of that land, to do and  
... or to prevent and continue to prevent any thing  
... or in respect of, certain other land not his own  
... beneficial enjoyment of which the right exists  
... heritage, and the owner or occupier thereof the  
... land on which the liability is imposed is called the  
... and the owner or occupier thereof the servient owner.  
... In the first and second clauses of the definition  
... includes also things permanently attached to the  
... "beneficial enjoyment" includes the right to  
... advantage, and over a  
... "anything" includes, when  
... for the beneficial en  
... of the right of the servient  
... owner.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house by himself, his family, guests, lodgers and servants, water or fish out of C's tank or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(f) A is bound to cleanse a watercourse running through this land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

5. Easements are either continuous or discontinuous, apparent or non apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non apparent easement is one that has no such sign.

#### *Illustrations*

(a) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non apparent easement.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non performance of a specified act.

7. Easements are restrictions of one or other of the following rights (namely) —

(a) The exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

(b) The right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

#### *Illustrations of the Rights above referred to*

(a) The exclusive right of every owner of land in a town to build on such land subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

*Explanation.*—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the “subjacent and adjacent soil” mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all the water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land and for the purposes of any manufactory situate thereon: Provided that he does not thereby cause material injury to other like owners.

*Explanation.*—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural or known course.

## CHAPTER II.

### THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

Who may impose easements. 8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

#### *Illustrations.*

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9 Subject to the provisions of section 8, a servient owner may impose <sup>Servient</sup> on the servient heritage any easement that does not lessen the utility of <sup>owners.</sup> the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

### Illustrations

(a)  
to noon  
stream f

(b)  
the own  
way P<sub>1</sub>

, as  
the

10 Subject to the provisions of section 8, a lessor may impose, on the <sup>Lessor and</sup> property leased, any easement that does not derogate from the rights of <sup>mortgagor</sup> the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

*Explanation*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one third, or, if consisting of buildings, exceeds by one half, the amount for the time being due on the mortgage.

11 No lessee or other person having a derivative interest may impose <sup>Lessee</sup> on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

12 An easement may be acquired by the owner of the immoveable <sup>Who may</sup> property for the beneficial enjoyment of which the right is created, or on <sup>acquire easement</sup> his behalf, by any person in possession of the same.

One of two or more co-owners of immoveable property may, as such with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

13 Where one person transfers or bequeaths immoveable property to <sup>Easements of necessity and quasi easements</sup> another,—

- (a) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement, or

- (b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;
- (c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or
- (d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

- (e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or
- (f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

#### *Illustrations.*

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was, at the date of the sale, used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary. Here A impliedly takes the land subject to the restriction that he may not obstruct such light.

to obstruct such light

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

1870

(l) Under the way Company compulsorily acquires a portion of B's land. The Company is entitled to such amount of lateral support as is essential for the safety of the siding.

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

14. When <sup>2</sup>[a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way, but it must be reasonably convenient for the dominant owner. Direction of way of necessity

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years, Acquisition by prescription

and where support from one person's land or things affixed thereto has been peaceably received by another person's land subjected to artificial pressure or by things affixed thereto, as an easement, without interruption, and for twenty years,

<sup>1</sup> See now the Land Acquisition Act, 1894 (1 of 1894), General Acts, Vol. IV

<sup>2</sup> The words "a right" in s. 14 were substituted for the word "right" by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years.

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

*Explanation I.*—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

*Explanation II.*—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Explanation III.*—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

*Explanation IV.*—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if, for the words "twenty years" the words "sixty years" were substituted.

#### *Illustrations.*

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.



16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land

Exclusion in favour of reversioner of servient herbage

*Illustration*

... s land A proves  
 ... rring ten of these  
 ... tled to the land,  
 and that within two years after O's death he contested A's claim to the right The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights

Rights which cannot be acquired by prescription

None of the following rights can be so acquired —

- (a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed,
- (b) a right to the free passage of light or air to an open space of ground,
- (c) a right to surface water not flowing in a stream and not permanently collected in a pool, tank or otherwise,
- (d) a right to underground water not passing in a defined channel

18. An easement may be acquired in virtue of a local custom Such easements are called customary easements.

Customary easements.

*Illustrations*

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy A builds a house in the town near B's house A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house

entitled, of a plot e thereby

19. Where the dominant herbage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place

Transfer of dominant herbage passes easement.

*Illustration.*

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

## CHAPTER III.

## THE INCIDENTS OF EASEMENTS.

Rules controlled by contract or title.

**20.** The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

Incidents of customary easements.

And when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident.

Bar to use unconnected with enjoyment.

**21.** An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

*Illustrations.*

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y A has another farm, Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of easement. Confinement of exercise of easement.

**22.** The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

*Illustrations.*

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching-grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

Right to alter mode of enjoyment.

**23.** Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

*Exception.*—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

## Illustrations

(a) A, the owner of a saw mill, has a right to a flow of water sufficient to work the mill. He may convert the saw mill into a corn mill, provided that it can be worked by the same amount of water.

(c) A has a right to discharge on B's land the rain water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

by pouring  
y pollute the  
new process  
injuriously

(d) A, a  
right to pollute  
the stream by

owners, a prescriptive  
not entitle A to pollute

24. The dominant owner is entitled,<sup>1</sup> as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement, but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible, and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Right to do  
acts to secure  
enjoyment.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Accessory  
rights.

## Illustrations

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

way over B's land. B renders the  
over the adjoining land of B, pro

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for  
expenses ne-  
cessary for  
preservation  
of easement.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.<sup>2</sup>

Liability for  
damage from  
want of re-  
pair.

<sup>1</sup> But see s 36, *infra*, as to abatement of obstruction of easement.

<sup>2</sup> But see s 50, *infra*, as to extinguishment or suspension of easement.

Servient owner not bound to do anything.

**27.** The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

#### Illustrations.

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound, as servient owner, to clear the watercourse or scour the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound, as servient owner, to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

Extent of easements.

**28.** With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:—

Easement of necessity.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

Other easements.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties and the purpose for which the right was imposed or acquired.

In the absence of evidence as to such intention and purpose—

Right of way.

(a) a right of way of any one kind does not include a right of way of any other kind:

Right to light or air acquired by grant.

(b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made:

Prescriptive right to light or air.

(c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used:

Prescriptive right to pollute air or water.

(d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and

Other prescriptive rights.

(e) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement Increase of easement

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage

#### Illustrations

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its bank by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage. Provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period. Partition of dominant heritage

#### Illustrations

distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage. Provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement. Obstruction in case of excessive user

#### Illustration

A, having a right to the free passage of by four, increases their size and number to the new windows without also obstructing B cannot obstruct the excessive user

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## CHAPTER IV.

## THE DISTURBANCE OF EASEMENTS.

Right to enjoyment without disturbance.

**32.** The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

*Illustration.*

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

Suit for disturbance of easement.

**33.** The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: Provided that the disturbance has actually caused substantial damage to the plaintiff.

*Explanation I.*—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

*Explanation II.*—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

*Explanation III.*—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

*Illustrations.*

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal of support.

**34.** The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage<sup>1</sup> is actually sustained.

Injunction to restrain disturbance.

**35.** Subject to the provisions of the Specific Relief Act, 1877,<sup>2</sup> 1 of 187 sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

<sup>1</sup> As to meaning of "substantial damage," see s. 33, Expl. I.

<sup>2</sup> General Acts, Vol. II.

- (a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this Chapter
- (b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement

Abatement of  
obstruction  
of easement

## CHAPTER V

### THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENT

37. When, from a cause which preceded the imposition of an easement the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished

Extinction by  
dissolution of  
right of ser-  
vient owner

*Exception*—Nothing in this section applies to an easement lawfully imposed by a mortgagee in accordance with section 10

#### *Illustrations*

(a) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends and with it the easement is extinguished.

(b) A, in 1860 let Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty nine years. B's interest in Sultanpur then ends and with it C's easement.

(c) A and B tenants of C have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultanpur to B and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage debt. The easement is not thereby extinguished.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner

Extinction  
by release

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

*Explanation I*—An easement is impliedly released—

- (a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement and such act is done in pursuance of such authority,
- (b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future

*Explanation II.*—Mere non-user of an easement is not an implied release within the meaning of this section.

*Illustrations.*

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

Extinction  
by revoca-  
tion.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction  
on expiration  
of limited  
period or  
happening of  
dissolving  
condition.

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

Extinction  
on termina-  
tion of neces-  
sity.

41. An easement of necessity is extinguished when the necessity comes to an end.

*Illustration.*

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction  
of useless  
easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction  
by permanent  
change in  
dominant  
heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.



44 An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement

Extinction on permanent alteration of servient heritage by superior force

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage, and the provisions of section 14 apply to such way

#### Illustrations

(a) A grants to B as the owner of a certain house a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45 An easement is extinguished when either the dominant or the servient heritage is completely destroyed

Extinction by destruction of either heritage

#### Illustration

A has a right of way over a road running along the foot of a sea cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46 An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages

Extinction by unity of ownership

#### Illustrations

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage; the easement is not extinguished except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person; the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages; the easements are not extinguished jointly acquire the servient heritage

heritages for the beneficial enjoyment or acquires one only of the servient

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47 A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years

Extinction by non-enjoyment

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner, and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration

Act, 1877,<sup>1</sup> a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

#### *Illustration.*

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction  
of accessory  
rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

#### *Illustration.*

A has an easement to draw water from B's well. A's accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension  
of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in

Servient  
owner not  
entitled to  
require con-  
tinuance.

<sup>1</sup> See now Act 16 of 1908, General Acts, Vol. VI.

consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient herit-  
age from such damage

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension

Compensation for damage caused by extinguishment or suspension

#### Illustration

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land, by the flooding of the stream, is damaged, and A has prevented

51. An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion, (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site, and (c) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage

Revival of easements

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

#### Illustration

A, as the obtains from remains lessee way revives

B's field Z A  
d so long as A  
B the right of

## CHAPTER VI

### LICENSES

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of

License "defined"

such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may  
grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may  
be express or  
implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory  
license an-  
nexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

#### *Illustration.*

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when  
transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

#### *Illustrations.*

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's  
duty to dis-  
close defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's  
duty not to  
render pro-  
perty unsafe.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's  
transferee  
not bound  
by license.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

License when  
revocable.

60. A license may be revoked by the grantor, unless—

(a) it is coupled with a transfer of property and such transfer is in force:

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

## 61. The revocation of a license may be express or implied

Revocation  
express or  
implied*Illustrations*

(a) A, the owner of a field, grants a license to B, to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

## 62. A license is deemed to be revoked—

License when  
deemed  
revoked.

(a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license

(b) when the licensee releases it, expressly or impliedly, to the grantor or his representative

(c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled

(d) where the property affected by the licensee is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right

(e) where the licensee becomes entitled to the absolute ownership of the property affected by the license

(f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable

(g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist

(h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee

(i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's  
rights on re-  
vocation

64. Where the license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor

Licensee's  
rights on  
eviction.

ACT No. X OF 1885.<sup>1</sup>

[APPLIES TO THE PROVINCE OF OUDH.]

[12th June, 1885.]

An Act to amend the Oudh Estates Act, 1869.<sup>2</sup>

WHEREAS it is expedient to amend the Oudh Estates Act, 1869;<sup>2</sup> It is hereby enacted as follows:—

Amendment  
of definition  
of "regis-  
tered" in  
section 2 of  
Act 1 of 1869.

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely:—

" 'registered' means—

(a) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

(b) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

Saving of  
certain wills.

2. Nothing in section 1 shall affect any will—

(a) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(b) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October, 1884.

ACT No. III OF 1886.<sup>3</sup>

[APPLIES TO THE UNITED PROVINCES.]

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.<sup>2</sup>

WHEREAS it is expedient to amend the Northern India Ferries Act, XVI 1878;<sup>2</sup> It is hereby enacted as follows:—

1. (1) For section 8 the following shall be substituted, namely:—

[*Supra*, p. 186.]

Substitution  
of new sec-  
tion for sec-  
tion 8 and  
amendment  
of sections  
12 and 15.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 581; and for Proceedings in Council, see *ibid*, Supplement, p. 1540, and *ibid*, Supplement, 1885, p. 1008.

<sup>2</sup> *Supra*.

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 277; and for Proceedings in Council, see *ibid*, Supplement, p. 1257, and *ibid*, 1886, p. 224. Short title, the Northern India Ferries Act, Amendment Act, 1886, see the Amending Act, 1897 (5 of 1897), General Acts, Vol. IV.

(2) For section 12, clause (b), the following shall be substituted, namely —

[*Supra*, p 187 ]

(3) In the third paragraph of section 15, for the word “ auction ” the word “ lease ” shall be substituted

2. (1) For the first paragraph of section 13 the following shall be substituted, namely —

Amendment  
of section 13  
and substitution  
of new  
section for  
section 26

[*Supra*, p 188 ]

(2) In the second proviso to the said section, after the word “ boats ” the words “ which do not ply for hire or ” shall be inserted

(3) For section 26 the following shall be substituted, namely —

[*Supra*, p 191 ]

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## THE MIRZAPUR STONE MAHAL ACT, 1886

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THE SCHEDULE.—LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF MIRZAPUR.

ACT No. V OF 1886.<sup>1</sup>

THE MIRZAPUR STONE MAHAL ACT, 1886.

[APPLIES TO THE PROVINCE OF AGRA.]

[29th January, 1886.]

An Act to declare and amend the Law relating to the Stone Mahal in the District of Mirzapur in the North-Western Provinces.

WHEREAS it is expedient to declare and amend the Law relating to the Stone Mahal in the District of Mirzapur in the North-Western Provinces; It is hereby enacted as follows:—

*Preliminary.*

1. (1) This Act may be called the Mirzapur Stone Mahal Act, 1886; and

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 285; for Proceedings in Council, see *ibid*, Supplement, pp. 1491, 1524, and *ibid*, 1886, Supplement, p. 225.



(2) It shall come into force on such day as the Local Government, by notification in the official Gazette, appoints

\* \* \* \* \*

2 [Repeal of Bengal Regulation II of 1800] Rep Act XII of 1891

3. In this Act, unless there is something repugnant in the subject or Definitions. context,—

- (1) "the district" means the whole of the area comprised in the district of Mirzapur as constituted at the time of the passing of this Act except the lands described in the schedule to this Act
- (2) "Collector" means the Collector of the Mirzapur District, and includes an Assistant Collector of the first class empowered by him to perform any of the functions of the Collector under this Act
- (3) "Commissioner" means the Commissioner of the Benares Division
- (4) "Board" means the Board of Revenue of the North-Western Provinces
- (5) "quarry" means to take from the surface as well as to extract from a quarry.
- (6) "transport" means to remove from one place to another within the district
- (7) "proprietor" includes an assignee of land-revenue and any person claiming under a proprietor or exercising any of the rights of a proprietor

#### *Rights of the Government and the Public*

4. The Government is entitled to levy duty on all stone quarried in the district

Right of the Government to levy duty

5 No proprietor of any land in any part of the district is entitled to impose any prohibition or restriction, or to demand or receive any sum by way of rent, premium, duty or price, in respect of the opening of a

Prohibition of levy of duty by proprietors

<sup>1</sup> The 1st May, 1889—see North Western Provinces and Oudh Gazette 1889, Pt I, p 171

<sup>2</sup> Sub section (3) which was as follows, was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol IV —

<sup>3</sup> (3) The power conferred by this Act on the Local Government to make rules may be exercised at any time after the passing of this Act, but a rule so made shall not take effect until the Act comes into force

<sup>4</sup> The Board is also the Board of Revenue for the Province of Oudh see s 11 (1) of the United Provinces Act 1890 (20 of 1890), *infra*

quarry, or the quarrying of stone, in the land, or in respect of the storing of stone at the quarry or the transport of stone over the land, or, save as may be provided by rules made under this Act, to receive from any person any compensation whatever in respect of any of the matters aforesaid.

Right of the  
public to  
quarry stone.

6. (1) Subject to the rules made under this Act, any person is entitled to open a quarry, or quarry stone, in any land in any part of the district, and to store the stone at the quarry, and to transport it over any land.

(2) A person may, so far as the rules made under this Act permit, acquire an exclusive right to open a quarry, or quarry stone, within certain local limits in any part of the district, and may retain the right so long as those rules permit.

(3) If a dispute as to the right referred to in sub-section (1), to open a quarry, or quarry stone, in any land, or as to the existence of or mode of exercising an exclusive right referred to in sub-section (2), to open a quarry or quarry stone, within certain local limits, arises between any persons, or if a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone and the proprietor of the land, it shall, on application for that purpose by either of the disputing parties to the Collector, be decided by him.

(4) A Civil Court shall not take cognizance of any such dispute or in any suit or proceeding whatever make any decree or order whereby any party to the dispute may be bound with respect to the subject-matter thereof either directly or indirectly.

### *Rules.*

Power to  
make rules.

7. (1) The Local Government may, from time to time, make rules<sup>1</sup> consistent with this Act to regulate within the whole or any specified part of the district all or any of the following matters:—

- (a) the quarrying of stone, and the places where stone may be quarried:
- (b) conflicting claims to exercise the right of opening a quarry or quarrying stone;
- (c) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist;

<sup>1</sup> For rules see the U. P. Local Rules and Orders.

- (d) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing or transport of stone, and the authority by which the compensation is to be determined,
- (e) the transport of stone,
- (f) the storing of stone,
- (g) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where and the persons by whom the duty is to be paid,
- (h) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions,
- (i) the custody and disposal of stone confiscated or seized under this Act, and,
- (j) generally, for carrying out the purposes of this Act

(2) In making a rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues

8. (1) The Local Government shall, before making any rules under section 7, publish a draft of the proposed rules for the information of persons interested Procedure for making rule.

(2) The publication shall be made in such manner as in the opinion of the Local Government is sufficient

(3) A notice shall be published with the draft specifying a date at or after which the draft will be taken into consideration

(4) The Local Government shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified

9. Every rule made under section 7 shall be published in the official Gazette in English and in such other language or languages as the Local Government directs, and that publication shall be conclusive proof that the rule has been made as required by section 8 Publication of rules

10. If a rule made under section 7, sub-section (1), clause (g), alter the rate of duty to be paid in respect of any class of stone, it shall not Deferred operation of rules altering duty

have effect till the expiration of one year from the date on which it is published.

### Offences.

Penalties for evasion of duty.

**11.** If any person evades, or attempts to evade, or abets the evasion of, the payment of any duty payable under a rule made under section 7, sub-section (1), clause (g), he shall be punished with fine which may extend to two hundred rupees and twenty times the duty payable on the stone in respect of which the offence was committed, and the Court convicting him may further order the confiscation of the stone.

Burden of proof as to payment of duty.

**12.** The burden of proving that duty has been paid on stone in respect of which a prosecution for an offence under section 11 has been instituted shall lie on the accused person.

Limitation for prosecutions.

**13.** A prosecution for an offence under section 11 or against a rule made under section 7 shall not be instituted after the expiration of six months from the commission of the offence.

Saving of prosecutions under other laws.

**14.** Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitute an offence under section 11 or against a rule made under section 7, or from being liable under that other law to any other or higher punishment or penalty than that provided by section 11 or a rule made under section 7:

Provided that a person shall not be punished twice for the same offence.

### Arrest, Seizure and Search.

Powers of officers.

**15.** (1) Any officer whom the Collector, with the previous sanction of the Commissioner, may empower in this behalf, may—

(a) proceed, in respect of an offence under section 11 or against a rule made under section 7 which in his presence a person commits or is accused of committing, in the same manner as a Police-officer may proceed, under section 57 of the Code of Criminal Procedure, 1882,<sup>1</sup> in respect of a non-cognizable offence which in his presence a person commits or is accused of committing; and

(b) seize any stone in respect of which he has reason to believe that an offence under section 11 or against a rule made under section 7 has been committed, and, if the stone is being transported, use for the removal thereof to the nearest place appointed for the custody of stone seized under this Act, any animals and conveyances used in transporting it.

<sup>1</sup> See now the same section of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(2) The powers conferred by this section may be exercised as well beyond as within the limits of the district, and if in the exercise of those powers a person is arrested or stone is seized beyond those limits, then, notwithstanding anything in this Act, the person arrested shall be liable to be dealt with, and the stone seized to be disposed of, in the same manner as if he had been arrested or it had been seized within those limits

16. (1) A Magistrate may issue his warrant for the search, after sunrise and before sunset, of any building vessel or place in which he has reason to believe that stone in respect of which an offence under section 11 or against a rule made under section 7 has been committed is kept or concealed, and for the seizure of any stone found there Search warrants

(2) The provisions of the Code of Criminal Procedure, 1882,<sup>1</sup> relating to searches under that Code shall, so far as the same are applicable, apply to searches under this section

### *Recovery of Duty*

17. An arrear of duty payable to the Government under a rule made under section 7, sub section (1), clause (g), and an arrear due from a farmer of duties payable on stone, may be recovered from the person primarily liable to pay the same to the Government, or from his surety (if any), as if it were an arrear of land revenue Recovery of duty

### *Appeal and Revision*

18. (1) Decisions and orders passed under this Act or any rule there under by an Assistant Collector, whether as Collector or otherwise, shall be appealable to the Collector of the Mirzapur District in the manner provided by the law for the time being in force in the district respecting appeals from the orders of an Assistant Collector to the Collector in matters pertaining to land revenue Appeal and revision

(2) Decisions and orders passed by the Collector of the Mirzapur District under this Act or any rule thereunder shall be appealable to the Commissioner in the manner provided by the law aforesaid respecting appeals from the orders of the Collector to the Commissioner

(3) The Board may revise any decision or order passed under this Act or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, or by the Collector of the Mirzapur District, or under sub section (2) by the Commissioner

<sup>1</sup> See now Act 5 of 1898 Genl. Acts Vol V

<sup>2</sup> As to recovery of arrears of land revenue in the United Provinces, see ss 146 to 150 of the United Provinces Land revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, Vol. II

*Miscellaneous.*

19. [*Saving of existing rates of duty.*] *Rep. Act XII of 1891.*

Exemption of  
the inhabit-  
ants of the  
hills.

20. (1) Notwithstanding anything hereinbefore contained, but subject to any rules which the Local Government may from time to time make to regulate the enjoyment of the privilege hereby conferred, the inhabitants of the tract south of the Vindhya range of hills shall be exempt from the payment of duty on stones quarried by them within the limits of that tract for their own use within those limits.

(2) The Local Government may, from time to time, by notification in the official Gazette, define the limits<sup>1</sup> of the said tract for the purposes of this section.

## THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF  
MIRZAPUR.

[See section 3, sub-section (1).]

Pargana or tappa.	Village.	Remarks.
Kantit . . . . .	Bajtha . . . . .	These villages were transferred from the Allahabad District in 1840.
	Baghaura Rajman . . . . .	
	Pali . . . . .	
	Sumatia . . . . .	
	Barha Khurd . . . . .	
	Basaura . . . . .	
	Chak Kothara . . . . .	
	Chak Madari . . . . .	
	Dogauli . . . . .	
	Rasauli . . . . .	
Upraudh . . . . .	Kothara . . . . .	These villages were transferred from the Allahabad District in 1861.
	Ghunguti . . . . .	
	Hargarh . . . . .	
	Nairi Katari . . . . .	
	Durjanipur . . . . .	
	Deohat . . . . .	
	Mahuat . . . . .	
	Maheshpur . . . . .	
	Katra Lahorya Dih . . . . .	
	Bhainsaur . . . . .	
	Mahagarhi . . . . .	

<sup>1</sup> For notification defining the limits of the tract, see U. P. Local Rules and Orders.

ACT No XVII OF 1886<sup>1</sup>

## THE JHANSI AND MORAR ACT, 1886

[APPLIES TO THE PROVINCE OF AGRA ]

[17th September, 1886 ]

An Act to annex the Town and Fort of Jhansi and certain adjacent Territory to the Jhansi District and for certain other purposes

1 (1) This Act may be called the Jhansi and Morar Act, 1886 and Short title and com-  
mencement

(2) It shall come into force on a date<sup>2</sup> to be appointed in this behalf by the Lieutenant Governor of the North Western Provinces,<sup>3</sup> which date is in this Act referred to as the commencement of this Act

## PART I

Whereas since the beginning of March, 1886, the town and fort of Jhansi have been ceded to the British Government in full sovereignty by His Highness the Maharaja Scindia in exchange for the cantonment of Morar which has been ceded to His Highness in full sovereignty by the British Government,

And whereas the town and fort of Jhansi have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the North Western Provinces,

And whereas it is proposed that certain lands adjacent to the Jhansi District should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands to be ceded to His Highness in full sovereignty by the British Government,

And whereas it is expedient that the town and fort of Jhansi, and the lands to be ceded to the British Government, should be annexed to the Jhansi District, and that the law in force therein should be the same as the law in force in that district,

\* \* \* \* \*

1886 n. 89A and for

It is hereby enacted as follows:—

Annexation  
of ceded lands  
to Jhansi  
District.

2. The town and fort of Jhansi, and the lands which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhansi District.

Assimilation  
of law in  
force in ceded  
lands to law  
in force in  
Jhansi  
District.

3. All enactments which at the commencement of this Act, or at the date of the cession of any of the lands referred to in the last foregoing section, are or shall be in force in the Jhansi District and not in the town and fort of Jhansi or in those lands, shall then come into force in the town and fort or in those lands, as the case may be.

4. [*Ceded lands to become part of the scheduled district of Jhansi.*] *Rep. Act XX of 1890, sec. 8 (2).*

Validation of  
acts done  
since the  
beginning of  
March, 1886.

5. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the town and fort of Jhansi since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

## PART II.

And whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of His Highness in cases which would have been cognizable by the Civil and Revenue Courts of the Jhansi District under the Code of Civil Procedure<sup>2</sup> or the Jhansi Courts Act, 1867,<sup>3</sup> or the North-Western Provinces Rent Act, 1881,<sup>4</sup> if the territory ceded by His Highness had been part of the Jhansi District at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhansi District;

And whereas the period of limitation prescribed for suits in the territories of His Highness is twelve years, and it is expedient that persons

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>2</sup> See now Act 5 of 1908, General Acts, Vol. VI.

<sup>3</sup> Act 18 of 1867 was repealed by the United Provinces Act, 1890 (20 of 1890), s. 5 (2), *infra*.

<sup>4</sup> Act 12 of 1881 was repealed by the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *infra*, Vol. II.



having just claims which, but for the cession of territory, they might have enforced in the Courts of His Highness, should not be debarred from enforcing those claims by reason of a shorter period of limitation being prescribed for any class of suits by the law in force in the Jhansi District,

And whereas it is expedient that suits pending in the Courts of His Highness and left undetermined by those Courts by reason of cession of territory should be continued in the Courts of the Jhansi District

And whereas it is expedient to remove doubts as to the effect of the law in force in the Jhansi District with respect to registration and stamps on documents and instruments to which at the time of their execution the law of His Highness applied and the law of British India did not apply,

It is hereby further enacted as follows —

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the first clause of the preamble to this Part may, with the previous sanction of the Deputy Commissioner,<sup>1</sup> be made to any Court in the Jhansi District subordinate to the Court of the Commissioner<sup>2</sup> which may be specified by the Deputy Commissioner<sup>1</sup> in that behalf in his order giving the sanction

Execution of  
decrees of  
Gwalior  
Courts

(2) If in any case the Deputy Commissioner<sup>1</sup> is of opinion that for special reasons the sanction ought to be withheld or ought to be granted subject to conditions, he may either withhold his sanction or permit the application to be made on any conditions which in the circumstances he deems it proper to impose, but in either of those cases he shall record the reasons in writing

1877 (3) The fact that an application is barred by the Indian Limitation Act, 1877,<sup>3</sup> may be sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhansi to the British Government, and to which the Deputy Commissioner<sup>1</sup> sees fit to apply the provisions of that Act, the Deputy Commissioner<sup>1</sup> shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act

(4) Subject to revision by the Commissioner of the Jhansi Division, an order of the Deputy Commissioner<sup>1</sup> sanctioning or refusing to sanc-

<sup>1</sup> Read 'District Judge, see the United Provinces Act, 1890 (20 of 1890), s. 7, *infra*

<sup>2</sup> This reference now applies to the Civil Courts established in the Jhansi District under the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), see *ibid*

<sup>3</sup> See now Act 9 of 1908, General Acts, Vol. VI

<sup>4</sup> Read "High Court," see the United Provinces Act, 1890 (20 of 1890), s. 7, *infra*

tion the making of an application under this section, or imposing conditions with respect thereto, shall be final.

Extension of  
period of  
limitation for  
certain suits.

7. (1) Notwithstanding anything in the Indian Limitation Act, 1877,<sup>1</sup> or in any other enactment, the Deputy Commissioner<sup>2</sup> may, within such term, not exceeding two years from the commencement of this Act, as the Local Government may prescribe in this behalf, admit any suit of a nature cognizable by the Courts of British India, which, if there had not been a cession of territory and the suit had been instituted in a Court of His Highness having jurisdiction with respect thereto, would not be liable to be dismissed by that Court by reason of its being barred by any law of limitation.

(2) In the computation of the period of limitation for a suit referred to in sub-section (1) which the plaintiff has been debarred from instituting by reason of the cession of the town and fort of Jhansi to the British Government there shall be excluded from the period the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(3) Subject to revision by the <sup>3</sup>Commissioner of the Jhansi Division, an order of the Deputy Commissioner<sup>2</sup> admitting or refusing to admit a suit under sub-section (1) shall be final.

Continuance  
of pending  
suits.

8. An original suit pending in a Court of His Highness and left undetermined by that Court by reason of cession of territory may be continued, under the law of limitation applicable to that Court, but otherwise in accordance with the law and procedure of British Indian Courts, in any Court in the Jhansi District subordinate to the Court of the Commissioner<sup>4</sup> which the Deputy Commissioner<sup>2</sup> may appoint in that behalf.

Saving in  
favour of  
unregistered  
documents  
and unstamp-  
ed instru-  
ments.

9. The provisions of the law of British India with respect to the consequences of documents being unregistered or instruments being unstamped shall not apply to any document or instrument which may have been executed before a date<sup>5</sup> to be prescribed in this behalf by the Local Government and to which the law of His Highness applied, and the law of British India did not apply, at the time of its execution.

### PART III.

AND whereas it is expedient that traders and others who were entitled immediately before the cession of the cantonment of Morar to

<sup>1</sup> See now Act 9 of 1908, General Acts, Vol. VI.

<sup>2</sup> Read "District Judge," see the United Provinces Act, 1890 (20 of 1890), s. 7, *infra*.

<sup>3</sup> Read "High Court," see *ibid*.

<sup>4</sup> This reference now applies to the Civil Courts established in the Jhansi District under the Bengal, Agra and Assam Civil Courts Act, 1887 (12 of 1887), see *ibid*.

<sup>5</sup> For date so prescribed, see N.-W. P. and Oudh Gazette, Extraordinary, dated the 15th December, 1890.

institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhansi and Agra, and at any other place from time to time appointed in this behalf by the Governor General in Council, and that the period of limitation in these cases should be extended,

It is hereby further enacted as follows —

1877 10. (1) Any person who at the date of the cession of the cantonment of Morar was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 66 to 75 (both inclusive) of the second schedule to the Indian Limitation Act, 1877,<sup>1</sup> or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application in any Civil Court at Jhansi or Agra, or other place appointed in that behalf by the Governor General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction

Suits for debt formerly cognizable in a Morar Court to be cognizable in Courts at certain other places.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhansi or Agra, or other place afore said, in which any such suit or application as is referred to in sub section (1) is instituted or made shall, subject to the provisions of that subsection, have jurisdiction to dispose of it

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded

### ACT No XIX of 1886<sup>2</sup>

[APPLIES TO THE PROVINCE OF AGRA]

[24th September, 1886]

An Act to legalize the discharge by the<sup>3</sup> Lieutenant Governor of the North-Western Provinces of certain functions of the Governor General in Council

<sup>1</sup> See now Act 9 of 1908 General Acts, Vol VI

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India 1884, Pt V, p 474, and for Proceedings in Council, see *ibid*, Supplement, pp 1169 and 1273, and *ibid*, Supplement 1886 p 1335

<sup>3</sup> Now the Governor of the United Provinces

WHEREAS certain functions which are by enactments in force in the North-Western Provinces assigned to the Governor General are in practice discharged by the <sup>1</sup>Lieutenant-Governor of those Provinces, and it is expedient that these functions should continue to be so discharged, and that their discharge in the past should be legalized;

And whereas the functions assigned to the Governor General in Council by Regulation LII of 1803<sup>2</sup> (*for establishing a Court of Wards in the Provinces ceded by the Nawab Vazir to the Honourable the English East India Company*), which Regulation was extended to the Conquered Provinces by section 29, Regulation VIII, 1805,<sup>2</sup> and to the Province of Benares by section 2, Regulation VI, 1822,<sup>2</sup> were up to the twenty-second day of December, 1873, discharged by the <sup>1</sup>Lieutenant-Governor of the North-Western Provinces, and it is expedient that their discharge by the said Lieutenant-Governor up to that date should be validated;

It is hereby enacted as follows:—

Transfer to  
Lieutenant-  
Governor of  
certain func-  
tions of  
Governor  
General in  
Council.

1. The sections of the enactments in the Schedule to this Act which are specified in the third column of that schedule shall have effect, and, so far as may be necessary to validate anything heretofore done under them by the <sup>1</sup>Lieutenant-Governor of the North-Western Provinces, shall be deemed to have had effect as if the <sup>1</sup>Lieutenant-Governor of the North-Western Provinces were therein referred to instead of the Governor General in Council.

Validation of  
exercise by  
Lieutenant-  
Governor of  
functions of  
Governor  
General in  
Council under  
Regulation  
LII of 1803.

2. Sections 3, 7, 9 and 17 of Regulation LII of 1803<sup>2</sup> shall be deemed to have had effect in the North-Western Provinces as if the words “or the <sup>1</sup>Lieutenant-Governor of the North-Western Provinces” had been inserted in those sections after the words “Governor-General in Council” wherever the latter words occur.

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>2</sup> Ben. Regs. 52 of 1803, 2 of 1805 and 6 of 1822 were repealed in the Province of Agra by the Agra Land-revenue Act, 1873 (19 of 1873).

## THE SCHEDULE.

*(See section 1.)**(a) Bengal Regulations.*

Number and year.	Subject	Sections
1	2	3
<sup>1</sup> V of 1799 . . .	To limit the interference of the Zila and City Courts of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.	7
<sup>1</sup> IX of 1833 . . .	For <i>(among other matters)</i> the more extensive employment of Native agency in the Revenue Department	16, 17 and 25

*(b) Act of the Governor General in Council.*

Number and year	Subject	Section
<sup>1</sup> XII of 1856. . .	To amend the law respecting the employment of amins by the Civil Courts in the Presidency of Fort William	2

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ACT No XXII of 1886<sup>1</sup>

THE OUDH RENT ACT, 1886

[APPLIES TO THE PROVINCE OF OUDH ]

[1st October, 1886 ]

An Act to consolidate and amend the law relating to Rent in Oudh

<sup>1</sup> For Statement of Objects and Reasons with letter from the Government of the North Western Provinces and Oudh see Gazette of India, 1886 Pt V, p 492 and for Proceedings in Council see *ibid*, Supplement pp 225, 862 and 1349

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Oudh Rent Act, 1886.
- (2) Save as provided thereby, it shall extend to the territories for the time being comprised in the Province of Oudh: and
- (3) It shall come into force on the first day of January, 1887.

Repeal.

2. (1) The Oudh Rent Act, XIX of 1868, is hereby repealed; but all notifications published and rules made under that Act shall, so far as may be, be deemed to have been published and made under this Act.

(2) The following enactments also are hereby repealed, namely:—

- (a) section 40 of the <sup>2</sup>Oudh Civil Courts Act, XXXII of 1871;
- (b) sections 23 and 24 of the <sup>3</sup>Oudh Laws Act, XVIII of 1876;  
and
- (c) section 1 of <sup>3</sup>Act XIV of 1878;

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “Court” means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act:

“[(1A) “Board” means the Board of Revenue:]

(2) “suit” means a suit under this Act;

(3) “land” includes the ungathered produce of land, whether spontaneous or not, and whether growing in earth or in water, but shall not include land for the time being occupied by dwelling-houses or manu-

<sup>1</sup> Sub-section (4) was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV. It ran as follows:—

“(4) Any power conferred by this Act on the Chief Commissioner to make rules, or to issue orders, may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.”

<sup>2</sup> The rest of Act 32 of 1871 was repealed by the Oudh Civil Courts Act, 1879 (13 of 1879), *supra*.

<sup>3</sup> *Supra*.

<sup>4</sup> Clause (1A) was inserted by the United Provinces Act, 1890 (20 of 1890), s. 44 (1), *infra*.

factories, or appurtenant thereto, so long as that land is not let to agricultural tenants

(4) "revenue" means money payable to the Government on account of land in sections 34 and 35 it means land revenue only

(5) "rent" means the money, or the portion of the produce of land, payable on account of the use or occupation of land or on account of any right in land, or on account of the use of water for irrigation

(6) "proprietor" does not include an under proprietor, and where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only

(7) "proprietary right" means a proprietor's right in land

(8) "under proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent

(9) "under proprietary right" means an under proprietor's right in land

(10) "tenant" means any person, not being an under proprietor, who is liable to pay rent, and in the following portions of this Act, namely, sections 13, 14, 15, 17, 18, 29, 53, 54, 55, sub sections (1) and (2), 56, 59, 60, 61, 62, 108, 126 and 138, but in no others, the expression "tenant" shall be held to include a thikadar or person to whom the collection of rents in a village or portion of a village has been leased by the landlord

(11) "landlord" means any person to whom an under proprietor or a tenant is liable to pay rent

(12) "representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person, and includes the guardian of a minor and the legal curator of a lunatic or idiot

<sup>1</sup>[(13) "prescribed" means prescribed from time to time—

(a) before the day<sup>2</sup> on which Part II of the North-Western Provinces and Oudh Act, 1890, came into force, by the <sup>3</sup>Chief Commissioner by rules under this Act, and

(b) after that day, by the Board by rules made under this Act with the previous sanction of the <sup>3</sup>Chief Commissioner ]

(14) "registered" means registered under any Act for the time being in force for the registration of documents

<sup>1</sup> Clause (13) was substituted by the United Provinces Act, 1890 (20 of 1890), s. 44 (3), *infra*.

<sup>2</sup> That is, the 1st January, 1891, *see infra*

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh

(15) "signed" includes marked, when the person making the mark is unable to write his name: and

(16) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Restrictions  
on exclusion  
of Act by  
agreement.

4. (1) Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.

(2) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(3) Where land not previously cultivated has been or is hereafter let by a landlord to a tenant, either after being reclaimed by or at the expense of the landlord or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation.

(4) Where land has remained uncultivated during a period of seven years, it shall, for the purposes of the last foregoing sub-section, be deemed to have not been previously cultivated.

(5) This section does not apply to tenants having a right of occupancy or to sub-tenants.

## CHAPTER II.

### OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

#### *Right of Occupancy.*

Tenants  
having a  
right of  
occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for those lands according to the provisions of this Act, have a right of occupancy under the following rule:—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate shall be deemed to possess a heritable but not a



transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty fourth day of August, 1866 Provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856 Provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co sharer with him possesses any under proprietary right

Nothing contained in the former part of this section shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty second day of July, 1868

6 Nothing in the last foregoing section shall be construed to restrict the power of a landlord to confer by registered document on any persons other than those mentioned in that section a right of occupancy in the lands which they hold or cultivate Saving of power to confer right of occupancy

7. If a tenant having a right of occupancy is ejected, in accordance with the provisions of section 52, from the land in which he possesses the right, he shall thereupon lose his right of occupancy in that land Loss of right of occupancy

7A (1) Every proprietor or under proprietor, whose proprietary or under proprietary rights, as the case may be, in a mahal or in any portion thereof, whether in any share therein or in any specific area thereof are transferred on or after the first day of January, 1902, Ex propriety tenants

either by sale in execution of a decree or order of a Civil or Revenue Court, or by voluntary alienation, otherwise than by gift or by exchange between co sharers in the mahal,

shall become a tenant with a right of occupancy in his <sup>own</sup> land, and in the land which he has cultivated continuously for twelve years at the date of the transfer, and shall be entitled to hold the same at a rent which shall be four annas in the rupee less than the rate generally payable by non occupancy tenants for land of similar quality and with similar advantages in the neighbourhood

(2) A usufructuary mortgage shall be deemed to be a transfer within the meaning of this section

(3) If a part only of the share of a proprietor or under proprietor in a mahal or in any portion thereof is so transferred, such proprietor or under proprietor shall become a tenant with a right of occupancy in so much of his <sup>own</sup> land, and of the land which he has cultivated continuously for twelve years at the date of the transfer, as appertains or corresponds to such part of his share

(4) Every such tenant, and every tenant having a right of occupancy under section 25 of the <sup>2</sup>Oudh Laws Act, 1876, shall be called an ex-

<sup>1</sup> S 7A was inserted by s 2 of the Oudh Rent Act, 1886, Amendment Act, 1901 (U P Act 4 of 1901), *infra*, Vol II

<sup>2</sup> *Supra*

proprietary tenant, and shall have all the rights and be subject to all the liabilities conferred and imposed by this Act upon occupancy-tenants.

(5) The land in which such occupancy-right has been created shall be specified, and the rent payable shall be fixed by the Collector under section 36 of the <sup>1</sup>North-Western Provinces and Oudh Land-revenue Act, 1901.

(6) Nothing in this section shall be deemed to limit the right of a proprietor to reserve proprietary or under-proprietary rights or of an under-proprietor to reserve under-proprietary rights in his sîr at the time of making a private transfer, or to confer a right of occupancy in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

#### *Tenants' Right to Pattas.*

Tenant's right to patta.

8. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the tenancy, signed by the landlord or his authorized agent, and containing the following particulars, namely:—

- (a) the quantity of land and, where the fields comprised in the patta have been numbered in a Government survey, the number of each field;
- (b) the term for which the tenancy is to run;
- (c) the amount of rent payable;
- (d) the instalments in which and the times at which that amount is to be paid;
- (e) any special conditions not inconsistent with the provisions of this Act; and
- (f) if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

Patta to which tenant having right of occupancy is entitled.  
Patta to which tenant not having right of occupancy is entitled.

9. Tenants having a right of occupancy are entitled to receive pattas at rates of rent determined in accordance with the provisions of Chapter IV, Part A <sup>2</sup>[or Part AA], of this Act.

10. Tenants not having a right of occupancy are entitled to pattas for the terms and at the rates prescribed in Chapter IV, Part B, of this Act.

#### *Landlords' Right to Counterparts.*

Landlord's right to counterpart.

11. Every landlord who grants a patta is entitled to receive from the tenant a counterpart signed by or on behalf of the tenant.

<sup>1</sup> *Infra.* Read now "the United Provinces Land-revenue Act, 1901," see the U. P. General Clauses Act, 1904 (U. P. Act 1 of 1904), s. 28 (2), *infra*, Vol. II.

<sup>2</sup> These words and letters were inserted by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, Vol. II.

*Arrears of Revenue or Rent.*

12. Any instalment of revenue or rent which is not paid on or before the day when it becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be

What to be deemed an arrear of revenue or rent

Provided that, unless the proprietor and under-proprietor have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which the rent is payable is situate, and to be payable in the same number of instalments as the revenue, and the amount of each instalment of the rent shall bear the same proportion to the whole of the rent payable for the year as the amount of each instalment of the revenue bears to the whole of the revenue payable for the year

*Receipts.*

13. (1) Every receipt for rent shall specify the year or years on account of which the rent has been paid, and any refusal to make that specification shall be held to be a withholding of a receipt

Receipts for rent

(2) If a receipt for rent paid by an under-proprietor or tenant is withhold from him without sufficient cause, he may recover compensation from the landlord up to an amount not exceeding that of the rent paid.

*Deposit of Revenue or Rent in Court without Suit.*

14. (1) If a co sharer, under-proprietor or tenant from whom any revenue or rent is due in respect of the land held or cultivated by him, tenders the full amount of that revenue or rent at the usual place of payment to the person authorised to receive it, and that person does not accept the amount and forthwith give a receipt in full therefor, the co sharer, under-proprietor or tenant may, without any suit having been instituted against him, deposit the amount in Court to the credit of the person authorized to receive it

Power to pay into Court amount of revenue or rent due

(2) The deposit shall, so far as regards the co sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardar or landlord of the amount so deposited

15. (1) The Court shall receive the deposit on the written application of the co-sharer, under-proprietor or tenant, or his recognized agent; and on the applicant making a declaration in the form set forth in Schedule A to this Act, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

Proceduro on making and withdrawing such payment

(2) The declaration shall be verified in the manner prescribed for the verification of plaints by section 52 of the Code of Civil Procedure,<sup>1</sup> and XI shall be signed by the person making it.

(3) Upon receiving the deposit, the Court shall issue to the person to whose credit it has been paid a notice in the form set forth in Schedule B to this Act.

(4) The notice shall be served by the proper officer without the payment of any fee.

(5) If the person to whose credit the deposit has been paid, or his recognized agent, appears and applies for it, the Court shall cause it to be paid to him.

(6) The application under sub-section (5) may be on plain paper.

**16.** Where a deposit has been made under the provisions of the two last foregoing sections, a suit shall not be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless the suit is instituted within six months from the date of the service of the notice mentioned in section 15.

#### *Illegal Enforcement of Payment of Rent.*

**17. (1)** If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for the illegal enforcement of the payment, the Court may award to him compensation, not exceeding the sum of two hundred rupees, in addition to any amount for which it makes a decree in respect of the payment itself.

(2) An award of compensation under sub-section (1) shall not bar any prosecution to which the person illegally enforcing the payment may be liable under any law for the time being in force.

#### *Abatement of Rent.*

**18.** Save as provided by section 29, sub-section (4), a suit for an abatement of the rent of a holding shall not be brought by an under-proprietor or tenant except on the ground that the area of the holding has diminished, or on some ground specified in a lease, agreement or decree under which he holds:

Provided that, if the under-proprietor holds a sub-settlement in a revenue-paying estate, an abatement shall not be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

<sup>1</sup> See now Act 5 of 1908, General Acts, Vol. VI.

Limitation  
for suits for  
balance of  
revenue or  
rent.

Compensa-  
tion to under-  
proprietor or  
tenant for  
illegal en-  
forcement of  
payment.

Suit for  
abatement  
of rent by  
under pro-  
prietor or  
tenant.

*Remission of Rent*

19. (1) Notwithstanding anything in the last foregoing section, a Court, when it makes a decree for an arrear of rent, may, with the previous sanction of the Deputy Commissioner, allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been materially diminished by diluvion or otherwise, or if the produce of that land has been diminished by drought, hail or other calamity beyond his control, to such an extent that the full amount of rent payable by him, cannot, in the opinion of the Court, be paid

Remission of  
rent by order  
of Court

(2) Where a remission of rent under this section causes a material diminution of the assets of the landlord in the village in which the remission is given, the revenue authorities shall take into consideration any claim made by the landlord for a remission of revenue

(3) A remission shall not be allowed under this section to an under-proprietor holding a sub-settlement, or to a tenant having a right of occupancy, unless a remission of revenue has been allowed on the same ground and by competent authority in the same village

*Relinquishment of Land*

20. (1) A tenant shall continue liable for the rent of the land in his holding unless on or before the fifteenth day of March in any year he gives to the landlord or to the recognized agent of the landlord notice in writing of his desire to relinquish that land, and relinquishes it accordingly

Relinquish-  
ment of land  
by tenant

(2) If the landlord or his recognized agent refuses to receive the notice or to sign and deliver a receipt therefor, the tenant may, before the latest date prescribed for giving the notice, apply on plain paper to the tahsildar or proper officer and written notice of the desire of the tenant to relinquish the land shall then be served on the landlord at the expense of the tenant

(3) A tenant cannot without the consent of his landlord relinquish a part only of his holding

(4) Nothing in this section shall entitle a tenant holding under a registered document under section 69 to relinquish his holding otherwise than in accordance with the terms of that document

21. (1) If a tenant abandons his holding without informing his landlord and without arranging for the cultivation of the holding the landlord may, at any time after the fifteenth day of May, enter on the holding

Abandon-  
ment of  
holding

(2) Before a landlord enters on a holding under sub section (1), he shall file a notice in the prescribed form at the office of the tahsildar for

service on the tenant, stating, that he has treated the holding as abandoned and is about to enter on it accordingly.

(3) When a landlord enters on a holding under sub-section (1), the tenant may institute a suit under this Act to recover possession of the holding, and the Court shall, on being satisfied that the tenant did not voluntarily abandon the holding, order recovery of possession on such terms with respect to the time of delivery of possession, the payment of arrears of rent, if any, and, if injury has been caused by the wrongful act, neglect or default of any party to the proceeding, with respect also to the payment of compensation by that party, as to the Court may seem just.

### *Compensation for Tenants' Improvements.*

Tenant's  
right to com-  
pensation for  
improve-  
ments.

**22.** (1) If a tenant, or a person from whom he has inherited, has made any such improvement on his holding as is hereinafter in this Chapter mentioned, neither he nor his representative shall be ejected from the holding unless and until he or his representative, as the case may be, has received compensation for the improvement:

Provided that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect.

(2) An improvement made by a tenant for the benefit of his holding on land belonging to the person who is entitled to receive the rent of the holding shall for the purposes of this section be deemed to have been made on the holding of the tenant.

Landlord's  
consent to  
tenant's im-  
provement.

**23.** Except as provided in the next following section, a tenant shall not be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

Reference  
to Deputy  
Commissioner  
when consent  
is refused.

**24.** (1) If a tenant applies for the written consent of his landlord to the making of an improvement on his holding, and the landlord omits or refuses to grant it, the tenant may apply to the Deputy Commissioner for permission to make the improvement.

(2) When an application is made to the Deputy Commissioner under sub-section (1), he shall take into consideration any objections which the landlord may have to urge on either of the following grounds, namely:—

(a) that the improvement is too costly or is unsuitable to the nature of the tenant's holding, or

(b) that the landlord is himself prepared to make the improvement,

and shall then either grant the permission on such conditions as he considers fair and equitable, or refuse the application.

25. (1) If either the landlord or the tenant desires the amount expended on an improvement executed with the permission of the Deputy Commissioner under the last foregoing section to be determined and registered, the Deputy Commissioner shall, on application made to him for the purpose, determine the amount of the outlay, and enter it in a register kept in the prescribed form

Registration  
of outlay on  
improvements

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings respecting the cost of the improvement

26. The word "improvement," as used in this Act, means a work by which the annual letting value of land has been, and at the time of a demand for compensation continues to be, increased, and comprises—

"Improve-  
ment" de-  
fined

- (a) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage and for protection against floods, the construction of wells, the reclamation of waste land and jungle, and other works of a like nature
- (b) the renewal or reconstruction of any of the foregoing works or such alterations therein, or additions thereto, as are not required for the maintenance thereof and increase durably their value

27. In estimating the compensation to which a tenant is entitled for an improvement regard shall be had—

Principle on  
which com-  
pensation is  
to be esti-  
mated

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement,
- (b) to the condition of the improvement and the probable duration of its effects,
- (c) to the labour and capital required for the making of such an improvement,
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement, and
- (e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

28. When a Court has assessed the amount of the compensation due to a tenant, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed upon between them

Modes of  
making com-  
pensation.

Improve-  
ment by the  
landlord.

**29.** (1) A landlord may make an improvement on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

(2) A landlord intending to make an improvement shall, if any part thereof is to be made on the holding of any such tenant, give notice of his intention to the tenant through the tahsildar.

(3) A landlord making an improvement on the holding of any such tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of the improvement is to impair the productive powers of the holding, the tenant shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as to the Court seems just.

(5) A landlord may not make an improvement on the holding of a tenant with a right of occupancy without the consent of the tenant.

### *Survey and Measurement.*

Landlord's  
right to enter  
and measure  
lands.

**30.** A landlord and his agents and surveyors may, at all reasonable times, enter upon any land comprised in his estate for the purpose of surveying and measuring the land.

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## CHAPTER III.

### PAYMENT OF RENT IN KIND.

Division or  
appraisement  
of produce.

**31.** Where rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other proceeding of a similar nature requiring the presence of both the tenant and the landlord either personally or by recognized agent, if either party neglect to be present at the proper time, or if a dispute arises between the parties regarding the division, estimate, appraisement or proceeding, either party may present an application to the Court, requesting that a proper officer be deputed to make the division, estimate or appraisement, or conduct the proceeding.

Procedure in  
case of dis-  
pute.

**32.** (1) On receiving the application, the Court shall issue a written notice to the other party to attend at a time and place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made, or the proceeding conducted.



(2) The award of that officer in respect of the division, estimate, appraisement or proceeding shall be final, unless, within <sup>1</sup>[three months] from the date thereof, either party institutes a suit to set it aside

## CHAPTER IV

### ENHANCEMENT AND FIXING RATES OF RENT

#### Part A —Tenants with Right of Occupancy

**33** (1) A tenant having a right of occupancy in any land shall not, in case of dispute as to the rent to be paid in respect of the land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds namely —

Enhancement of rent of tenant with right of occupancy

*1st ground* —That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages situate in the same village

*Rule* —In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate

*2nd ground* —That the rate of rent paid by him is more than twelve and a half per cent below the rate of rent usually paid by tenants of the same class not having a right of occupancy for land of a similar description and with similar advantages situate in the same village

*Rule* —In this case the Court shall enhance his rent to such amount as the plaintiff demands not exceeding that rate less twelve and half per cent

*3rd ground* —That the quantity of land held by him exceeds the quantity for which he has previously paid rent

*Rule* —In this case the Court shall decree rent for the land in excess at rates to be fixed by the first or the second of the rules contained in this section, as the case may be

(2) Nothing in sub section (1) shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty second day of July, 1868

**34** After a decision has been passed in accordance with the last foregoing section a suit shall not lie for re enhancement of the rent until the expiration of five years from the date of the decision, except on the ground mentioned in that section, or, in the case referred to in the next following section, until, by re assessment within the term of five years the revenue of the land has been increased

Term for re enhancement after decision fixing rent under section 33

**35** If, on a re assessment of the revenue the rent of the tenant cannot be enhanced under section 33 by reason of the absence of the

Enhancement on re assess

<sup>1</sup> These words were substituted for the words one month by the United Provinces Act, 1890 (20 of 1890) s 45 *infra*

ment of  
revenue.

grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at the re-assessment upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

<sup>1</sup>*Part AA.—Ex-proprietary Tenants.*

Enhancement  
of rent.

**35A.** When the rent of an ex-proprietary tenant has been fixed by an order under section 25 of the <sup>2</sup>Oudh Laws Act, 1876, or section 36 or <sup>XVI</sup> section 87 of the <sup>3</sup>North-Western Provinces and Oudh Land-revenue Act, <sup>1876</sup> 1901, the landholder may, when, and not before,— <sup>U. P.</sup> <sup>III o</sup>

(a) ten years shall have expired from the date of the order so fixing the rent, or

(b) there has been a revision of settlement,

sue for enhancement of the rent on the following ground and no other, viz., that the rate of the rent paid is more than four annas in the rupee below the prevailing rate paid by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

Enhancement  
or abatement  
in case of  
alluvion,  
diluvion, etc.

**35B.** (1) Notwithstanding anything contained in section 35A, the landholder may, at any time, sue for enhancement of the rent of an ex-proprietary tenant on one or both of the following grounds and no others, namely,—

(a) that the area of the tenant's holding has been increased by alluvion or otherwise; or

(b) that the productive powers of the land held by the tenant have been increased otherwise than by the agency or at the expense of the tenant.

(2) An ex-proprietary tenant may sue at any time for abatement of the rent paid by him on one or both of the following grounds and no others, namely,—

(c) that the area of the land held by him has been diminished by diluvion or otherwise; or

(d) that the productive powers of the land have been diminished by any cause beyond his control.

*Part B.—Other Tenants.*

Tenant in  
occupation  
at passing of

**36.** Every tenant, not being a tenant with a right of occupancy or a sub-tenant, shall be entitled to retain possession of the holding occupied

<sup>1</sup> Part AA was inserted by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), s. 3, *infra*, Vol. II.

<sup>2</sup> *Supra*.

<sup>3</sup> *Infra*, Vol. II. Read now United Provinces Land-revenue Act, 1901, see the U. P. General Clauses Act, 1904 (U. P. Act 1 of 1904), *infra*, Vol. II.

by him at the time of the passing of this Act at the rent then payable by him, for a period of seven years from the date of the 1st change in his rent or of the last alteration in the area of the holding, or, where no such change or alteration has taken place, from the date on which the tenant was admitted to the occupation of the holding

**37** Every such tenant who may be admitted to the occupation of a holding after the passing of this Act shall be entitled to retain the same for a period of seven years from the date of his admission at a rent agreed upon with the landlord in accordance with the provisions of this Act, and every such tenant, in the area of whose holding or in the amount of whose rent any change is made by the landlord subsequently to the passing of this Act, shall be deemed to be admitted to the occupation of a holding within the meaning of this section

*Explanation I* —“Holding” means a parcel or parcels of land held by a tenant and forming the subject of a separate engagement. The engagement may be express or implied.

*Explanation II* —This section and section 36 have effect subject to the provisions of section 4, sub sections (3) and (4) relating to land not previously cultivated, and subject also to section 157, excluding certain classes of land from the operation of certain sections of this Act.

**38** (1) A landlord may enhance the rent of a tenant to whom section 36 or section 37 applies, either by contract in accordance with the provisions of this section or by notice as hereinafter provided

(2) Subject to the provisions of sections 49 and 50, the enhancement shall not, in any case, exceed one anna in the rupee, or six and a quarter per cent on the annual rent payable by the tenant at the time when the contract was made or the notice was issued

(3) Provided that, where rent is paid in kind the proportion of produce paid as rent by a tenant shall not be subject to increase except in accordance with an established custom of the pargana in which the land is situate

**39** If a landlord desires that the rent of a tenant to whom section 36 or section 37 applies be enhanced on the expiration of the term of seven years referred to in section 36 or section 37, as the case may be, or at any time during the currency of that term in the case mentioned in section 50, he may cause a notice to that effect to be served under section 42

**40** (1) A notice whereby enhancement is claimed on account of the expiration of the period of the tenancy shall not be served before the commencement of the last year of the tenancy

(2) A notice of enhancement on account of an improvement made or acquired by the landlord may be served at any time during the currency of the tenancy

Contents of  
the notice.

41. The notice shall be written in Hindi and Urdu, and shall specify the land, the amount of the present rent, and the amount of the enhancement, and require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within thirty days from the date of the service thereof.

Service of  
the notice.

42. On the application of the landlord to the tahsildar or other prescribed officer, the notice shall be served by the officer on or before the fifteenth day of February at the expense of the landlord.

Grounds on  
which tenant  
may contest  
his liability  
to enhance-  
ment.

43. The tenant may institute a suit to contest the notice of enhancement within thirty days from the date of the service thereof, on any of the following grounds, namely:—

- (a) that he has a right of occupancy in the land specified in the notice;
- (b) that he holds under a special agreement or decree of Court or lease under the terms of which his rent is not liable to enhancement;
- (c) that the enhancement claimed is in excess of the rate authorized by law;
- (d) that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37 equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding;
- (e) that the notice has not been served in the manner required by this Act;
- (f) that, where the enhancement claimed is on account of an improvement, the amount claimed is excessive.

Tenant's  
liability for  
enhanced  
rent.

44. (1) If the tenant does not contest the notice of enhancement and remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, he shall become liable for the enhanced rent.

(2) If the tenant contests the notice, and the validity thereof is maintained by the Court in whole or in part, he shall, if he remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, become liable for the enhanced rent to the extent to which the Court has maintained the validity of the notice.

Commence-  
ment of fresh  
statutory  
period.

45. If the tenant by remaining in possession of the land under the last foregoing section becomes liable for enhanced rent, he shall be entitled to hold the land at that rent for a further period of seven years.

46 If the tenant refuses to accept the enhancement claimed or decreed and vacates the holding he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding

Vacating tenant's right to compensation for improvements

47 (1) Except in the cases mentioned in sections 49 and 50, the rent of a tenant admitted to the occupation of any land the tenancy of which has determined according to the provisions of this Act, shall not exceed by more than one anna in the rupee, or six and a quarter per cent, the rent payable by the tenant immediately preceding him

Rent of tenant succeeding to vacant holding

(2) In the case of a tenant admitted to the occupation of a holding of which the rent has been immediately before his admission paid in kind, the rent payable shall be subject to any established custom of the pargana in which the holding is situate be either the rent payable by the tenant immediately preceding him, or a sum which subject to the provisions of sections 49 and 50 shall not exceed by more than six and a quarter per cent the equivalent of the value of the produce annually paid as rent on the average of the three years immediately preceding

48 (1) The heir of a tenant who dies during the currency of the tenancy of a holding shall be entitled to retain occupation of the holding at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant might have held without liability to enhancement or ejectment, and to receive compensation under the provisions of this Act for improvements if any made on the holding by himself or his predecessor in interest but shall not be entitled to a renewal of the tenancy

Rights of the heir of a deceased tenant

(2) Subject to any rights which he may have under section 22 as a representative of the deceased a collateral relative who did not at the date of the death of the deceased share in the cultivation of the holding shall not be deemed to be an heir of the deceased within the meaning of this section

49 The rent of a tenant admitted to the occupation of any land, the tenancy of which has ceased in consequence of the death of a previous tenant or of the ejectment of a *thikrdar* or mortgagee from land of which he has taken cultivating possession during the period of his *thika* or mortgage shall be such amount as may be agreed upon between him and the landlord

Rent of tenant succeeding to a holding vacated by the death of the previous tenant

50 (1) Nothing in the foregoing sections shall bar the right of a landlord to enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement which has been made by or at the expense of the landlord, or for which, during the currency of the tenancy, compensation has been accepted from the landlord by the owner of the improvement, or, on the expiration

Enhancement of rent for improvements made or acquired by landlord

of the tenancy, compensation has been paid in accordance with the determination of a Court under this Act.

(2) Where an enhancement is claimed on the ground of any such improvement, the Court, in determining the claim, shall have regard to—

- (a) the increase in the productive powers of the land caused, or likely to be caused, by the improvement;
- (b) the cost of the improvement; and
- (c) the cost of the cultivation required for the utilising of the improvement.

Power for  
Local Gov-  
ernment to  
vary the limit  
of enhance-  
ment of rent.

51. Notwithstanding anything in the foregoing sections, the Chief Commissioner may, by notification in the local official Gazette, vary from time to time, within periods of not less than seven years, the limits of the enhancement to which tenants to whom section 36 or section 37 applies are liable in any local area specified in the notification.

## CHAPTER V.

### EJECTMENT.

#### *Tenants holding on special terms.*

Ejectment of  
tenants hold-  
ing on special  
terms.

52. (1) A tenant having a right of occupancy in any land, or holding any land under a special agreement or decree of Court, shall not be ejected from that land otherwise than in execution of a decree for ejectment:

Provided that the decree for ejectment shall not be made, unless, at the date of that decree, a decree against the tenant for an arrear of rent in respect of the land has remained unsatisfied for fifteen days or upwards.

(2) A decree for the ejectment of a tenant holding under a special agreement or decree of Court may be made on such grounds as would justify ejectment under the agreement or decree.

#### *Other Tenants.*

Ejectment of  
other tenants.

53. A tenant not having a right of occupancy, and not holding under a special agreement or decree of Court, may be ejected by notice, application or suit under the following sections of this Chapter.

Ejectment by  
notice.

54. If a landlord desires to eject any such tenant on the expiration of his tenancy, he may cause a notice of ejectment to be served on the tenant under the next following section.

Contents,  
service and  
cost of notice.

55. (1) The notice shall be written in Hindi and in Urdu; it shall be signed by the landlord or by an agent authorized by him in that behalf;

it shall specify the land from which the tenant is to be ejected, it shall, if a court fee is payable in respect thereof under this section, contain a certificate by the patwari as to the annual rent payable for the holding to which the notice relates, and it shall inform the tenant that he must either (a), if he means to dispute the ejection, institute a suit for that purpose within thirty days from the date of the service of the notice, or (b) vacate the land on or before the fifteenth day of May next following

(2) On the application of the landlord to the tahsildar or other prescribed officer, the notice shall, if the proper court fee (where a court fee is payable under this section) has been paid in respect thereof, be served on the tenant by the officer on or before the fifteenth day of November at the expense of the landlord

(3) If the tenant on whom the notice is to be served is a tenant to whom section 36 or section 37 applies there shall except as provided by this sub section and sub section (4) and by section 69, be payable in respect of the notice a court fee equal in value to half the annual rent payable for the holding of the tenant, or, in the case of a tenant paying rent in kind, a court fee equal to half the value of the produce annually paid as rent on the average of the three years immediately preceding

Provided that the court fee shall not in any case exceed twenty five rupees

(4) A court fee shall not be payable under sub section (3) in respect of a notice on a person to whom section 48 applies

(5) Stamps representing the court fee shall be affixed on the notice before the notice and the application for the service thereof are presented to the tahsildar or other prescribed officer

(6) The court fee paid by a landlord under this section shall not in any circumstances be adjudged to be payable as costs or otherwise by the tenant

56 (1) A tenant on whom a notice has been served under the last foregoing section may institute a suit to contest his liability to be ejected from the land specified therein on any of the following grounds, namely —

Grounds on which tenant may contest liability to ejection

- (a) that he has a right of occupancy in the land,
- (b) that he holds under a special agreement or decree of Court or unexpired lease under the terms of which he is not liable to be ejected from the land,
- (c) if he is a tenant to whom section 55, sub section (3), applies, that the notice was insufficiently stamped,
- (d) if he is a tenant to whom section 36 or section 37 applies that seven years will not have elapsed on the fifteenth day of

May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37, as the case may be, equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding;

(e) if he is a tenant to whom section 53 applies, that notice of ejectment has not been served upon him in the manner required by this Act.

(2) A thikadar shall not be entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

Compensation for improvements, if any, to be claimed in suit contesting liability to ejectment. Determination of the claim.

57. If the tenant has any claim for compensation for improvements on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

58. If the Court dismisses the suit in whole or in part, it shall determine the amount of the compensation, if any, due for improvements, and shall declare ejectment from the whole or part of the land, as the case may be, to be conditional on payment of that amount into Court.

Tenancy to cease if notice is not contested.

59. If the tenant on whom notice of ejectment has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall cease on the fifteenth day of May next following, unless, after the service, the landlord has authorized him in writing to continue to occupy the land.

When assistance to eject may be given by Court.

60. (1) If the landlord requires assistance to eject a tenant on whom he alleges a notice to have been served under section 55, he may apply for that assistance to the Court which would have had jurisdiction with respect to a suit by the tenant to contest his liability to be ejected under the notice, and that Court shall order the ejectment of the tenant if it is satisfied—

- (a) that a notice of ejectment was duly served on the tenant;
- (b) that the tenant has not brought a suit to contest the notice, or that, if a suit for that purpose has been brought, it has been determined adversely to the tenant;
- (c) that the tenant has not been authorized by the landlord in writing to continue to occupy the land.

(2) Nothing done by the Court under sub-section (1) shall affect the right of the tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation therefor.



61. (1) If a landlord desires to eject a tenant to whom section 53 applies, and against whom a decree for an arrear of rent has been passed and remains unsatisfied, he may, after the first day of April of the year in which that arrear accrued, apply to the Deputy Commissioner to eject the tenant Ejectment by application

(2) The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay that amount into Court within fifteen days from the receipt of the notice, he will be ejected from his holding

(3) If the amount is not so paid, the Deputy Commissioner shall, unless good cause is shown to the contrary, eject the tenant

62. (1) A tenant to whom section 53 applies shall be liable to ejectment by suit during the currency of his tenancy on any of the following grounds, namely — Ejectment by suit.

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy,

(b) that at the time of the institution of the suit the entire holding has been sub let,

(c) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding,

(d) where the tenant holds, under an unexpired lease, land to which section 4, sub sections (3) and (4) applies, then on any ground which would justify ejectment under the lease

(2) The tenant shall continue liable for the rent of the land until the decree is executed

### General

63. Except in pursuance of an order under section 21, sub section (3), a tenant shall not in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupation, except between the first day of April and the thirtieth day of June in any year after the passing of this Act Time of ejectment of tenant

64. A thikadar liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy Time of ejectment of thikadar

65. In any suit for ejectment the defendant may file any claim for compensation for improvements which he may have against the plaintiff, and, if the Court finds the grounds on which the suit is brought to be valid, it shall determine the amount of compensation, if any, due from the plaintiff to the defendant, and shall pass a decree of ejectment conditional on the payment into Court of that amount Preference by tenants of claims for compensation for improvements in suits for ejectment.

Compensation to ejected tenant for growing crops.

66. A tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to the tenant and being on the land at the time of his ejection:

Provided that, if the land has been sown or planted by the tenant after service on him of a notice under section 55, he shall not be so entitled, unless, after that service, the landlord has authorized him in writing to continue to occupy the land.

## CHAPTER VI.

### SUPPLEMENTAL PROVISIONS RESPECTING TENANCIES.

#### *Sir-Lands.*

Sir-lands.

67. (1) The rights conferred upon tenants by sections 24, 36, 37, 38, 39, 45, 46, 47 and 48 shall not accrue to cultivators of any of the following lands, namely:—

(a) land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as sir in the distribution of proprietary or under-proprietary profits and charges;

(b) land which for the seven years immediately preceding the passing of this Act has been continuously cultivated by the proprietor or under-proprietor himself, or by his servants or by hired labour.

(2) Land which was recorded as sir at settlement and has been continuously so recorded since shall, until the contrary is proved, be presumed to be land of the class mentioned in clause (a) of sub-section (1).

#### *Thikadars, Mortgagees and Sub-tenants.*

Thikadars, mortgagees and sub-tenants.

68. (1) A person holding land as a thikadar, mortgagee or sub-tenant shall not, while so holding, acquire any of the rights enumerated in the last foregoing section in any of the land comprised in his thika, mortgage or sub-tenancy.

(2) A person having those rights in land does not lose them by subsequently taking a thika or mortgage in which his holding is comprised.

#### *Long Leases.*

Incidents of leases for

69. (1) When a holding has been let by registered document for a term of eight years or upwards at a rent determined thereby for the whole

of the term in accordance with the provisions of this Act to a tenant to whom section 36 or section 37 applies, the landlord shall, on the expiration of the term, be entitled to enhance the rent of the holding in accordance with the provisions of Chapter IV, Part B and not otherwise and shall also be entitled to eject the tenant by notice under section 55 without payment of a court fee under that section eight years or upwards

Provided that any change in the rent or alteration in the area of the holding by the landlord during the term shall be a bar to enhancement and ejectment for seven years from the date of that change or alteration

(2) In addition to the grounds mentioned in clauses (a) (b) and (c) of section 62 sub section (1) a tenant to whom this section applies shall be liable to ejectment by suit during the currency of his tenancy on any ground which would justify ejectment under the registered document under which he holds

### Miscellaneous

70 Where a tenant has received a patta a statement that since the date of the patta his rent has been changed or area of his holding altered by the landlord, shall not be admissible in evidence unless the change or alteration is recorded in an entry on the patta signed by or on behalf of the landlord and in an entry on the counterpart signed by or on behalf of the tenant or in a new patta and counterpart Evidence respecting change of rent or alteration of area of holding

71 The expression "special agreement" or "decree of Court" where it is used in this Act to signify the tenure on which land is held by a tenant, is to be construed as referring to an agreement or decree made or passed before the passing of this Act Construction of certain expressions

## CHAPTER VII

### DISTRESS FOR ARREARS OF RENT

72 When an arrear of rent is due from any tenant, the landlord may, subject to the provisions of this Chapter, distrain the produce of the land in respect of which the arrear is due Recovery of arrears of rent by distress

Provided that when a tenant has given security for the payment of his rent the produce of the land in respect of which the rent is payable shall not be liable to distress so long as the security is in force

73 Distress shall not be made for the recovery of—

- (a) any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due unless the tenant has agreed in writing to pay that excess, or unless he has been declared by decree to be liable therefor, or

Distress not permissible in certain cases

(b) any arrear which has been due for a longer period than one year.

Power of distress by whom exerciseable.

**74.** The power of distress vested by section 72 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildars of estates held under direct management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain:

Provided that, if any such agent, purporting to act in the exercise of that power, commits an act which, under the provisions of this Chapter, is illegal, the person employing him shall be liable, as well as the agent, to be sued for compensation for any injury caused by the act.

Distress by servants.

**75.** Any person empowered to distrain property under section 72 or section 74 may employ a servant or other person to make the distress, but in every such case he shall give to the servant or person a written authority in that behalf, and the distress shall be made in the name and on the responsibility of the person giving the authority.

Crops liable to distress.

**76.** (1) Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

(2) But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

Demand of arrear before or at time of distress.

**77.** (1) Before or at the time when any distress is made under this Act the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrears, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of distress and service of list of distrained property on owner.

**78.** Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and, when he has made the distress, he shall prepare a list or description

<sup>1</sup> The duty chargeable on these documents under the Stamp Act, 1899 (2 of 1899), has been remitted, see Gazette of India, 1904, Pt. I, p. 569.

of the property distrained and deliver a copy thereof to the owner, or, if the owner is absent, affix it at his usual place of residence.

79. (1) Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose Reaping and storing standing crops distrained.

(2) If the tenant neglects to do so, the distrainer may cause the crops or products to be reaped or gathered, and in that case shall store them either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood

(3) In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose

(4) If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering

80. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it thinks necessary, depute an officer to assist the distrainer in making the distress Application by distrainer in case of resistance.

81. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the payment and give a receipt therefor and forthwith withdraw the distress Withdrawal of distress on tender of arrear and costs

82. Within five days from the time of storing any distrained crops or products, or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for the sale thereof to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate Application for sale

83. (1) The application shall be in writing, it shall contain a list or description of the property distrained and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited Form of application.

(2) Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as provided in the next following section

84. (1) Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C to this Act, or to the like effect, on the person whose property has been distrained, requiring him either to pay the Procedure on receipt of application.

amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

(2) The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation, and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

(3) The proclamation shall contain a description of the property, and shall specify the demand for which it is to be sold, and the place where the sale is to be held.

Suspension  
of sale on  
institution  
of suit.

85. (1) If a suit is instituted in pursuance of the notice mentioned in the last foregoing section, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

(2) On the certificate being received by, or presented to, the proper officer he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to con-  
test distrai-  
ner's demand.

86. (1) Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 84, sub-section (1).

(2) When any such suit is instituted, the Court shall proceed in the manner directed in section 85.

(3) If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal  
of distress on  
execution of  
bond.

87. (1) The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

(2) When a bond has been executed under sub-section (1), the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the execution of the bond.

(3) Upon the certificate being presented to the distrainer by the owner of the property, or upon the notice being served on the distrainer by order of the Court, as the case may be, the property shall be released from distress.

88 On the expiration of the period fixed in the proclamation of sale, Sale if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided he shall unless that demand, with such costs of the distress as are allowed by him, is discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary

89 (1) The sale shall be held at the place where the distrained property is deposited, or at the nearest <sup>Place and manner of sale</sup> ganj, bazar or other place of public resort if the proper officer thinks that it is likely to sell there to better advantage

(2) The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable and if the demand, with the costs of distress and sale, is satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder

90 If on the property being put up for sale a price which the officer holding the sale thinks fair is not offered and if the owner of the property <sup>Postpone-ment of sale</sup> or his recognized agent applies to have the sale postponed until the next day or (if a market is held at the place of sale) until the next market day, the sale shall be postponed until that day and shall be then completed at whatever price may be offered

91 (1) The price of every lot shall be paid in ready money at the time of sale or as soon thereafter as the officer holding the sale thinks <sup>Payment of purchase money</sup> fit and in default of payment the property shall be put up again and is sold

(2) When the purchase money has been paid in full the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor

92 (1) The officer holding the sale shall deduct from the proceeds one <sup>Proceeds of sale</sup> anna for every rupee and fraction of a rupee on account of the expenses attending the sale

(2) He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 84 to such amount as after examination of the statement of expenses furnished by the distrainer the officer thinks proper to allow

(3) The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold

93 Officers holding sales of property under this Act, and all persons employed by or subordinate to, those officers, are forbidden to purchase, <sup>Officers holding sales not to purchase</sup> either directly or indirectly property sold by those officers

Illegal acts of  
distrainer to  
be reported.

94. (1) The officer mentioned in section 82 shall bring to the notice of the Court any illegal act which may come to his knowledge as having been committed by any person in making a distress under this Act.

(2) If in any case, on proceeding to hold a sale under this Act, that officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 84, or make such other order as it thinks proper.

Recovery of  
expenses  
where sale  
does not take  
place.

95. (1) When that officer has gone to any place for the purpose of holding a sale and a sale does not take place either for the reason stated in section 94 or because the distrainer's demand has been previously satisfied, a charge of one anna for every rupee of the value of the distrained property, as estimated by the officer, shall be leviable by him on account of the expenses of the intended sale, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of its having been satisfied has been given by him to the officer.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion of the property as may be necessary.

(3) In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

(4) The charge leviable under this section shall not exceed ten rupees in any case.

Second pro-  
clamation of  
sale when  
arrears are  
adjudged to  
be due.

96. (1) When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion thereof is adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

(2) On the application of the distrainer (which shall be made within five days from the receipt of the order by the officer), the officer shall publish a second proclamation in the manner prescribed in section 84, fixing another day for the sale of the distrained property, not being less than five, or more than ten, days from the date of the proclamation, and, unless the amount adjudged to be due with costs of distress is paid before that day, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to  
prove the  
arrear in suit  
to contest his  
demand.

97. (1) In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount of the arrear.

(2) If the demand or any part thereof is found to be due, the Court shall make in favour of the distrainer a decree for the amount so found.



(3) That amount may be recovered, if the distrained property has not been released on security, by sale of the distrained property as provided in section 96, and, if any balance remains due after the sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property has been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of the surety

98 If the distress is adjudged to be vexatious or groundless, the Court besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained Compensation for vexatious distress

99 If any person claims, as his own property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and that other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent, alleged to be due from him, may institute a suit to contest the demand Suit by third party claiming property distrained.

100 (1) When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court Rules applicable to suit by third party

(2) If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be

(3) If the claim is upheld the Court shall order the release of the distrained property, and may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained

101 No claim to any produce liable to distress under this Act and found at the time of the distress in the possession of a defaulting tenant, whether the claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against the prior claim of the landlord Landlord's prior claim to distrainable produce in possession of defaulting tenant

102 When property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for that arrear is claimed by or on behalf of any person other than the distrainer, on the ground of that other person being actually and in good faith in the receipt and enjoyment of the rent of the land, that other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commence Stranger claiming to be landlord and to have right of distress to be made a party

ment of the suit shall be inquired into, and the suit shall be decided according to the result of the inquiry:

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish that title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

Suit for illegal distress.

**103.** Any person whose property has been distrained for the recovery of a demand not justly due or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be within the period allowed by section 84 or section 99, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress and sale.

Suit for illegal act of distrainer.

**104.** In any of the following cases, namely:—

- (a) if any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells, otherwise than in accordance with the provisions of this Act, any property for the recovery of an arrear of rent alleged to be due, or
- (b) if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or
- (c) if the distress is not immediately withdrawn when any provision of this Act requires its withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under the Act.

**105.** (1) If any person not empowered by this Act to distrain or sell, or not duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of the property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

(2) The institution of a suit under sub-section (1) shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

Procedure in case of resistance to distress.

**106.** (1) If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of the resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

(2) If the case cannot be at once heard and determined, the Court may, if it thinks fit, require the person arrested to give security for his appearance whenever he may be required to appear, and, in default of the security being given, may commit him to the civil jail until the case is tried

107. If the resistance to the distress or the removal of the distrained property is proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made

Punishment  
of offender

Provided that the offender shall not be imprisoned under this section for a longer term than six months

## CHAPTER VII-A.

### RESUMPTION OF LAND HELD RENT FREE OR AT A FAVOURABLE RATE OF RENT

107A A proprietor of a mahal or part of a mahal may sue to resume possession of, or to have rent assessed on, any land situated in such mahal or part of a mahal purporting to be held rent free, whether by grant in writing or otherwise, and to resume possession of, or to enhance the rent of, any land held at a favourable rate of rent, whether so held by grant in writing or otherwise

Land held  
rent free or  
at favourable  
rate liable to  
resumption,  
assessment  
or enhance-  
ment of rent.

107B All land held rent free or at a favourable rate of rent shall be liable to resumption or assessment or enhancement of rent unless the holder establishes that the land—

Saving of  
certain lands  
held rent  
free or at  
favourable  
rate

- (a) is so held under a grant sanctioned by the Governor General in Council or <sup>2</sup>Chief Commissioner, or
- (b) is so held under a judicial decision previously to the first day of January, 1902, or
- (c) was acquired rent free or at a favourable rate of rent for a valuable consideration previously to the commencement of the <sup>3</sup>Oudh Land Revenue Act, 1876, and the right to resume it had been, previously to the commencement of that Act, barred by the law of limitation

Provided that no land held under a written instrument, whether executed before or after the first day of January, 1902, by which the grantor

<sup>1</sup> Ch VII A was inserted by s. 5 of the Oudh Rent Act, 1886, Amendment Act, 1901 (U P Act 4 of 1901), *infra* Vol II

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>3</sup> Now repealed by the U P Land revenue Act 1901 (U P Act 3 of 1901), *infra*, Vol II Act 17 of 1876 came into force on the 10th October, 1876, the date when it was passed

expressly agrees that the grant shall not be resumed, shall be liable to resumption or assessment or enhancement of rent until the grantor dies, or the term of the current settlement of the local area in which the grant is situated expires, whichever event first occurs:

Provided also that nothing in this section shall apply to any grants to which the provisions of section 79 of the <sup>1</sup>North-Western Provinces and Oudh Land-revenue Act, 1901, are applicable.

Application  
when to be  
made to the  
Settlement-  
officer.

**107C.** (1) Suits under section 107A shall, when the district or other local area in which the land is situated is under settlement, be instituted in the Court of the Settlement-officer, who shall have the powers of a Collector under this Chapter.

(2) Nothing in the <sup>2</sup>Indian Limitation Act, 1877, shall bar the right to institute a suit under this Act to assess to rent land held rent-free.

Land not  
liable to  
resumption  
liable to  
assessment or  
enhancement  
of rent.

**107D.** In a suit for the resumption of land held rent-free or at a favourable rate, if the Court finds, on grounds other than those specified in section 107B, that the land is not liable to resumption, it shall proceed to determine, under sections 107G and 107H, whether the land is liable to assessment or enhancement of rent.

Rent-free  
land when  
liable to  
resumption.

**107E.** Land held rent-free or at a favourable rate shall be liable to resumption, only when by the terms of the grant or by local custom it is held—

- (a) at the pleasure of the grantor;
- (b) for the performance of some specific service, religious or secular, which the proprietor no longer requires;
- (c) conditionally or for a term, and the conditions are broken or the term expires.

Every suit for resumption under this section shall be brought within twelve years from the date on which the right to resume first accrues. Such right first accrues—

in case (a), on the first day of January, 1902, in respect of existing grants and in respect of future grants on the date of such grant;

in case (b), on notice in writing by the proprietor to the grant-holder that the service is no longer required;

in case (c) when the conditions are broken or the term expires.

Nothing in this section shall prevent the proprietor from suing for assessment or enhancement of rent on land resumable under this section in lieu of resumption thereof.

<sup>1</sup> *Infra.*

<sup>2</sup> See now Act 9 of 1908, General Acts, Vol. VI.

**107F** If the Court orders the grant to be resumed, it shall at the same time pass a decree for the ejectment of the holder subject to the provisions of sections 22, 23, 26, 27, 28, 63 and 66 of this Act, which shall apply as if the holder had been a tenant

Order of  
ejectment  
when the  
land is  
resumed

**107G** (1) Land not liable to resumption under section 107E and to which the provisions of section 107H do not apply shall be liable to assessment or enhancement of rent, as the case may be

Rent free  
land when  
liable to  
assessment or  
enhancement  
of rent

(2) When a grant held rent free or at a favourable rate is found to be liable to have rent assessed or enhanced thereon the grantee shall be deemed to be a tenant without a right of occupancy under sections 36 and 37 of this Act and the rent shall be determined at such rate as the Court may consider to be fair and equitable having regard to the rents paid for land of similar quality and with similar advantages in the neighbourhood

(3) The period of seven years for which he shall be entitled to retain the holding shall begin from the first day of July next following the date of the institution of the suit

**107H** Land not liable to resumption under section 107E and which has been held rent free or at a favourable rate since the thirteenth day of February 1856 or for fifty years and by two successors to the original grantee, and

When rent  
free tenure  
confers under  
proprietary  
right

land which was acquired in perpetuity in consideration of the loss or surrender of a right previously vested in the grantee or by written instrument and for a valuable consideration

shall be deemed to be held in under proprietary right and the Court shall declare the holder of such land to be the under proprietor thereof and liable to pay a rent therefor equal to the revenue with an addition of not less than ten or more than fifty per cent and shall assess the rent payable by the under proprietor

In the case of revenue free mahals the term "revenue for the purposes of this section" shall mean the amount that would be payable on such mahal if it was liable to assessment

**107I** For the purposes of this Chapter a grant of land at a favourable rate of rent means a grant of land at a rent less than the aggregate of the revenue and local rates payable thereon

Meaning of  
favourable  
rate of rent

**107J** For the purposes of this Chapter the words "proprietor of a mahal or portion of mahal" include an under proprietor with whom a sub-settlement has been made

Resumption  
by an under  
proprietor

**107K** Notwithstanding anything contained in section 116 appeals from decrees or orders under this Chapter shall be governed by the provisions of Chapter X of the North Western Provinces and Oudh Land revenue Act 1901

Special pro-  
visions as to  
appeals

## CHAPTER VIII.

## JURISDICTION OF THE COURTS.

*Suits cognizable.*

Suits  
cognizable  
under the  
Act.

108. <sup>1</sup>[Except in the way of appeal as hereinafter provided], Courts other than Courts of Revenue shall not take cognizance of the following description of suits, and those suits shall be heard and determined in Courts of Revenue in the manner provided in this Act, and not otherwise:—

*A.—Suits by a Landlord—*

- (1) for the delivery by a tenant of the counterpart of a patta;
- (2) for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent;
- (3) for the enhancement of the rent of a tenant;
- (4) for the ejectment of a tenant;
- (5) against patwaris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of those patwaris or agents for money received or accounts kept by the patwaris or agents in the course of their employment as aforesaid, or for papers in their possession, or for the rendering and settlement of accounts;
- <sup>2</sup>[(5A) for resumption of, or assessment or enhancement of, rent on land held rent-free or at a favourable rate of rent;]

*B.—Suits by an Under-proprietor or a Tenant—*

- (6) for establishing a right of occupancy;
- (7) for the delivery by a landlord of a patta;
- (8) for contesting a notice of enhancement or ejectment;
- (9) for compensation—
  - (a) on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or

<sup>1</sup> These words were inserted in s. 108 by the United Provinces Act, 1890 (20 of 1890), s. 46, *infra*.

<sup>2</sup> Clause (5A) was inserted by s. 6 of the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, Vol. II.

- (b) on account of the withholding of a receipt for a payment of rent, or
- (c) on account of illegal ejectment, or
- (d) on account of loss caused by the making of an improvement under section 29, sub-section (3), or
- (e) on account of the value of standing crops under section 66;
- (10) for the recovery of the occupancy of any land which has been treated by a landlord as abandoned or from which an under-proprietor or tenant has been illegally ejected by the landlord,
- (11) for contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of that power, or for compensation for illegal distraint,
- (12) for abatement of rent in accordance with the provisions of section 18 or section 29, sub section (4),
- (13) for the recovery of compensation for improvements in accordance with the provisions of section 22,

*C—Suits regarding the Division or Appraisement of Produce—*

- (14) to set aside an award in respect of a division, estimate, appraisement or proceeding under section 32,

*D—Suits by and against Lambardars, Co-sharers and Muafidars—*

- (15) by a sharer against a lambardar or co-sharer for a share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of those profits,
- (16) by a lambardar, or by a patadar who is entitled to collect the rents of the patti, for arrears of revenue or rent payable through him by the co-sharers whom he represents, or by a lambardar for village-expenses and other dues for which the co sharers may be responsible to him or against a joint lambardar for compensation for revenue or rent paid by the lambardar on account of the joint lambardar;
- (17) by co-sharers against lambardars, or by proprietors or lessees against muafidars or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the withholding of a receipt for a payment of revenue or rent;
- (18) by muafidars or assignees of revenue for arrears of revenue.

*Grades of Courts.*

Grades of  
Courts for  
the purposes  
of the Act.

**109.** For the purposes of this Act, there shall be five grades of Courts of Revenue, namely:—

- (1) the Assistant Collector of the second class;
- (2) the Assistant Collector of the first class;
- (3) the Collector;
- (4) the Commissioner;
- (5) <sup>1</sup>[the Board].

Power to  
invest officers  
with powers  
of Assistant  
Collector.

**110.** (1) <sup>2</sup>The Chief Commissioner may from time to time confer upon any officer the powers of an Assistant Collector of the first or of the second class under this Act, and may at any time withdraw those powers.

(2) In conferring powers under this section the <sup>2</sup>Chief Commissioner may empower persons specially by name or classes of officials generally by their official titles.

Deputy Com-  
missioner to  
have Collec-  
tor's powers.

**111.** The Deputy Commissioner shall exercise the powers of a Collector under this Act.

Investment  
of Settle-  
ment officers  
with powers  
of Collector  
or Assistant  
Collector.

**112.** The <sup>2</sup>Chief Commissioner may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector or Assistant Collector under this Act.

Jurisdiction  
of Assistant  
Collector of  
the second  
class.

**113.** An Assistant Collector of the second class may try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 108, of which the value does not exceed one hundred rupees.

Jurisdiction  
of Assistant  
Collector of  
the first class

**114.** An Assistant Collector of the first class may try and determine suits of every description of which the value does not exceed five thousand rupees.

Jurisdiction  
of Collector.

**115.** (1) The Collector may try and determine suits of every description without limit as regards the value \* \* \* \* \*

<sup>1</sup> The words "the Board" were substituted for the words "the Judicial Commissioner" by the United Provinces Act, 1890 (20 of 1890), s. 47, *infra*.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> For notification conferring these powers, see the U. P. Local Rules and Orders.

<sup>4</sup> The words "and hear appeals from decrees of Assistant Collectors of the second class, and except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from orders of Assistant Collectors of the first or of the second class" were repealed by the United Provinces Act, 1890 (20 of 1890), s. 48, *infra*.



(2) Whenever the state of the public business so requires, the <sup>1</sup>Chief Commissioner may invest any Assistant Collector of the first class with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from decisions of that Assistant Collector, and with the powers of a Deputy Commissioner under sections 24, 25 and 61, and may invest any Collector with all or any of the powers of a Commissioner under this Act

of 1882 <sup>2</sup>116. Subject to the provisions of section 119 and of the <sup>3</sup>Code of Civil Procedure as applied by this Act, an appeal shall lie from an original or appellate decree or order made under this Act, as follows, namely —

Appeals to  
Courts of  
Revenue

- (a) to the Collector when the decree or order is made by an Assistant Collector of the second class
- (b) to the Commissioner when the decree or order is made by a Collector or an Assistant Collector of the first class
- (c) to the Board when the decree or order is made by a Commissioner

of 1882 Provided that, subject to the provisions of section 119 an appeal from an original decree or order of a Collector shall not lie except on the grounds mentioned in section 584 of the <sup>3</sup>Code of Civil Procedure, and that the decree or order made on that appeal shall be final

<sup>1</sup>117. [*Jurisdiction of Judicial Commissioner*] Rep Act XX of 1890, s 50

#### Appeals \*

<sup>1</sup>118 (1) Save as provided by sub section (2) of this section, an appeal shall not lie—

Limitation  
for appeals.

- (a) to the Collector—after the expiration of thirty days from the date of the decree or order complained of,
- (b) to the Commissioner—after the expiration of sixty days from that date, or
- (c) <sup>2</sup>[to the Board]—after the expiration of ninety days from that date

<sup>1</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>2</sup> This section was substituted for the original s 116 by Act 20 of 1890, s 49, *infra*  
The original section was as follows —

<sup>3</sup> The Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Collectors and of Assistant Collectors of the first class, and except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from original orders of Collectors

<sup>4</sup> See now Act 5 of 1908, General Acts Vol VI

<sup>5</sup> As to disposal of appeals pending when Part II of the United Provinces Act, 1890 (20 of 1890), came into force see s 54 of that Act *infra*

<sup>6</sup> The words "to the Board" were substituted for the words "to the Judicial Commissioner" by *ibid*, s 51

(2) In computing these periods of thirty, sixty and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.<sup>1</sup>

Appeals to  
Judge and  
Judicial Com-  
missioner.

<sup>2</sup>119. Subject to the provisions of the Code of Civil Procedure<sup>3</sup> as applied by this Act, an appeal shall lie from an original decree or order of a Collector or of an Assistant Collector of the first class in a suit of a description mentioned in clause (2), (9), sub-clause (a) or (b), (11), (15), (16) (17) or (18) of section 108, as follows, namely:—

(a) to the District Judge, if the value of the suit does not exceed five thousand rupees;

(b) to the Judicial Commissioner, if the value of the suit exceeds five thousand rupees.

Procedure in  
appeals to  
District  
Judge or  
Judicial Com-  
missioner.

<sup>4</sup>119A. The rules for the time being in force in regard to the time within which appeals from the decrees and orders of Civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals under this Act to the District Judge or to the Judicial Commissioner.

Second  
appeals.

<sup>4</sup>119B. From the decrees passed under this Act in appeal by District Judges an appeal shall lie to the Judicial Commissioner in all cases in which a second appeal is allowed by the Code of Civil Procedure<sup>3</sup> and subject to the provisions of the Indian Limitation Act, 1877.<sup>1</sup>

Powers of  
District  
Judge and  
Judicial  
Commissioner  
in appeal.

<sup>4</sup>119C. For the purpose of deciding appeals under this Act a District Judge and the Judicial Commissioner shall have the powers conferred on a Court by this Act.

Appeal from  
orders of De-  
puty Com-  
missioners  
acting as  
such.

120. An order of a Deputy Commissioner sanctioning a remission of rent under section 19, or granting or refusing an application under section 24, or determining the amount of the outlay on an improvement under section 25, or directing or refusing to direct the

<sup>1</sup> See Act 9 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> This section was substituted for the original s. 119 by Act 20 of 1890, s. 52, *infra*.  
The original section was as follows:—

“The decree or order of a Commissioner or of a Collector in a suit of value not exceeding one hundred rupees and of a description mentioned in clause (2), (5), (9), (11), (14), (15), (16), (17) or (18) of section 108, or in an appeal from a decree or order in any such suit, shall be final, unless a question of right to enhance or otherwise vary the rent of a tenant, or a question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the decree or order of the Commissioner or of the Collector, in which case the decree or order last mentioned shall be open to appeal in the manner provided in this Act.”

<sup>3</sup> See now Act 5 of 1908, General Acts, Vol. VI.

<sup>4</sup> Sections 119A to 119C were inserted by the United Provinces Act, 1890 (20 of 1890), s. 53, *infra*.

ejection of a tenant under section 61, shall be subject to appeal to the Commissioner, whose order on the appeal shall be final

### Review <sup>1</sup>

**120A.** The Board may review and may rescind, alter or confirm any decree or order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the decree or order

Power for Board to review its orders

### Distribution of Business

of 1882

**121** Notwithstanding anything in the Code of Civil Procedure,<sup>2</sup> the Deputy Commissioner may, by order in writing, direct that any business cognizable by him and the Courts subordinate to him shall be distributed among those Courts in such manner as he thinks fit

Power of Deputy Commissioner to distribute business

Provided that a direction given under this section shall not empower any Court to exercise any power or deal with any business beyond the limits of its proper jurisdiction

### Transfer of Suits and other Proceedings

**122** The \* <sup>3</sup> Deputy Commissioner may withdraw any suit or other proceeding instituted in any Court subordinate to him, and try it himself or refer it for trial to any other such Court competent to try it

Transfer of suits and other proceedings by Deputy Commissioners

**123** <sup>4</sup>[The Board or the Commissioner] may order that any suit or other proceeding pending in any Court <sup>5</sup>[subordinate to the Board or the Commissioner] shall be transferred to any other such Court <sup>6</sup>[competent as regards the nature of the case to dispose of it]

Transfer of suits and other proceedings by Board or Commissioner

### Miscellaneous

**124** In the performance of their duties under this Act Collectors shall be subordinate to and subject to the direction and control of, Commissioners and <sup>7</sup>[the Board], and Assistant Collectors shall be subordinate to, and subject to the direction and control of, the Deputy Commissioners to whose districts they are respectively appointed

General Subordination of Courts

<sup>1</sup> This heading and s 120A were inserted by Act 20 of 1890 s 55, *infra*

<sup>2</sup> See now Act 5 of 1903, General Acts Vol VI

<sup>3</sup> The words 'Commissioner or' were repealed by the United Provinces Act 1890 (20 of 1890), s 56 *infra*

<sup>4</sup> These words were substituted for the words 'the Judicial Commissioner' 'subordinate to him' and the words 'competent to dispose of it,' respectively, in s 123 by *ibid* s 57, *infra*

<sup>5</sup> The words 'the Board' in both places where they occur in s 124 and proviso were substituted for the words 'the Chief Commissioner' by *ibid*, s 58

Provided that nothing in this section shall empower <sup>1</sup>[the Board] or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

Power to refer to Judicial Commissioner questions as to jurisdiction.

**124A.** (1) If, in any suit instituted or on any appeal presented, in a Civil Court or in any Court of Revenue, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the Judicial Commissioner.

(2) On any such reference being made, the Judicial Commissioner may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as the Judicial Commissioner may in his order declare to be competent to take cognizance of the suit or appeal.

(3) The order of the Judicial Commissioner on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

**124B.** In all suits instituted in any Civil Court or Court of Revenue, in which an appeal lies to the District Judge or the Judicial Commissioner, an objection that the suit was instituted in the wrong Court shall not be entertained by the Appellate Court, unless such objection was taken in the Court of first instance; but the Appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken in Court of first instance.

**124C.** If in any such suit such objection was taken in the Court of first instance, but the Appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where in such cases the Appellate Court has not materials for determining the suit.

**124D.** If in any such suit the Appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure<sup>3</sup> relating to appeals; and if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its orders either to the Court in which the suit was instituted, or to any other Court competent to entertain the suit;

and the objection that the order of a subordinate Appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on second appeal.

**125.** Suits which, under the provisions of this Act, may be brought by or against landlords may be brought by or against managing agents or tahsildars of estates held under direct management, whether those estates are the property of Government or not.

<sup>1</sup> The words "the Board" in both places where they occur in s. 124 and proviso were substituted for the words "the Chief Commissioner" by the United Provinces Act, 1890 (20 of 1890), s. 58, *infra*.

<sup>2</sup> Sections 124A to 124D were inserted by *ibid*, s. 59.

<sup>3</sup> See now Act 5 of 1908, General Acts, Vol. VI.

Suits by or against managing agents or tahsildars of estates held under direct management.

126. (1) A sharer in a joint estate or under proprietary or other tenure in which a division of land has not been made among the sharer's, shall not exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers

Sharer to exercise certain powers only through manager or lambardar

(2) In pattidari estates or tenures those powers shall be exercised only through a lambardar, or through the pattidar who is entitled to collect the rents of the patti

(3) Nothing in this section shall be construed to affect any local custom or special contract

127. Any person in possession of land occupied without consent of the landlord shall be liable for the rent of that land at the rate payable in the previous year, or, if rent was not payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of that land have any of the statutory privileges conferred by this Act

Rent payable for land occupied without consent of landlord

128. A Court may sit at any place<sup>1</sup> within the local limits of its jurisdiction, or, in the case of an Assistant Collector, at any place within the limits of the district to which he is appointed

Place of sitting of Courts

## CHAPTER IX

### LIMITATION OF SUITS

129. Subject to the provisions as to the legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall, except as otherwise provided in this Act, be instituted within one year from the date of the accrual of the cause of action

General limitation.

130. A suit for the delivery of a patta or the counterpart of a patta may be instituted at any time during the tenancy

Suits for delivery of pattas or counterparts.

131. A suit by a tenant for the recovery of a holding which has been forfeited by a landlord as abandoned under section 21 shall be instituted within three months from the date on which the landlord entered upon the holding

Suits for recovery of holdings treated as abandoned.

132. A suit for the recovery of an arrear of revenue or rent, or, where rent is payable in kind, for the money equivalent of rent, or of a share of

Suits for arrears of revenue or rent or share of profits

<sup>1</sup> As to places where Board of Revenue may sit, see the United Provinces Act, 1890 (20 of 1890) s. 63, *infra*

profits, shall, except in the case mentioned in section 16, be instituted within three years from the last day of the month of Jeth of the Fasli year in which the arrear fell due.

Suits against agents for money or delivery of accounts or papers.

**133.** A suit for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be instituted at any time during the continuance of the agency or within one year after its determination.

Suits regarding distress and division or appraisement of produce.

**134.** A suit regarding distress under section 103, 104 or 105, or to set aside an award in respect of a division, estimate, appraisement or proceeding under section 32, shall be instituted within three months from the date of the accrual of the cause of action.

## CHAPTER X.

### PROCEDURE.

Applications of the Code of Civil Procedure to proceedings under this Act.

**135.** The provisions of the Code of Civil Procedure<sup>1</sup> as in force in XIV Oudh shall, so far as they are not inconsistent with the provisions of this Act, apply to all suits and other proceedings under this Act.

Mode of service of notices.

**136.** Every notice under this Act shall, if practicable, be served on the person to whom it is addressed or on an agent authorized by him to accept service on his behalf; but, if that person or an agent so authorized cannot be found, service may be made by posting the notice at the usual place of residence of the person to whom the notice is addressed, or, if that person does not reside in the district wherein the land is situate, at the village-chaupal or other conspicuous place in the village wherein the land is situate.

Contents of complaints.

**137.** In addition to the particulars required by section 50 of the 'Code XIV of Civil Procedure to be specified in the complaint, the complaint shall contain the following particulars, namely:—

- (a) the name of the village or estate, and of the pargana in which the land to which the suit relates is situate;
- (b) if the suit is for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice of ejectment, or for the recovery of the occupancy or possession of any land, then the extent,

<sup>1</sup> See now Act 5 of 1908, General Acts, Vol. VI.

situation and designation of the land to which the suit relates and, where fields have been numbered in a Government survey the number (if it is possible to give it) of each field,

- (c) if the suit is for recovery of an arrear of rent or revenue, then the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due,
- (d) if the suit is for the delivery of a patta or the counterpart of a patta, then all the particulars mentioned in section 8

138 When in any suit between a landlord and an under proprietor or tenant the right to receive the rent of land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed the rent up to the time of the commencement of the suit, that third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of the inquiry

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of the land to establish his title thereto in a Court of competent jurisdiction

139 In suits under clauses (1), (2), (7), and (11) of section 108, the summons to the defendant shall be for the final disposal of the suit

Summons to defendant to be for final disposal in certain suits  
Set off in suits for arrears of rent

140 In a suit to recover an arrear of rent, no set off shall be allowed against the claim except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff

141 When an arrear of rent remains due from any tenant, he shall be liable to pay interest on the arrear at the rate of one per cent per mensem

Interest on arrears of rent

142 (1) In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiffs' claim, together with the costs incurred by the plaintiff up to the time of the making of the deposit

Payment of money into Court by defendant

(2) Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application

(3) From the date of the making of a deposit under this section, interest shall not be allowed to the plaintiff on the sum deposited, whether that sum be in full of the plaintiff's claim or fall short thereof

Proceeding for balance where defendant pays less than amount claimed.

143. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in the last foregoing section shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Making of local investigations by Court.

144. (1) A Court may, if it thinks fit, itself make a local investigation instead of issuing a commission under section 392 of the Code of Civil Procedure.<sup>1</sup> XIV

(2) When the Court itself makes a local investigation, the provisions of section 393 of that Code with respect to the recording of evidence shall apply to the Court, and any observations which the Court sees fit to record on its proceedings shall be received as evidence in the suit.

### Decrees.

Time for the making of applications or execution.

145. A process of execution shall not be issued on a decree under this Act when the application for the issue of the process is made after the lapse of three years from the date of the decree, unless the decree is for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law for the time being in force as to the period allowed for the execution of decrees of Civil Courts.

Immediate execution of decree.

146. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the Code of Civil Procedure.<sup>1</sup> XIV

Decree for enhancement to state date of commencement of enhancement. Enforcement of decree for delivery of papers or accounts.

147. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which the enhancement shall take effect.

148. (1) If the decree is for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of the property, or by both imprisonment and attachment.

(2) The imprisonment and attachment may be continued until the party complies with the terms of the decree:

Provided that he shall not be imprisoned under this section for a longer period than six months.

Decrees for patta or counterpart to specify certain particulars.

149. A decree for the delivery of a patta or of the counterpart of a patta shall specify all the particulars mentioned in section 8, and such other particulars in accordance with the provisions of this Act as the Court deems fit.

<sup>1</sup> See now Act 5 of 1908, General Acts, Vol. VI.



150. If the decree is for the delivery of a patta or of the counterpart of a patta, and the party ordered to deliver the patta or counterpart neglects or refuses to do so, the Court may grant a patta or counterpart in conformity with the terms of the decree, and that patta or counterpart shall have the same effect as if delivered by the party against whom the decree was passed

Grant of patta or counterpart in case of defendant's refusal

151. If the decree is for money, a process in execution shall not issue against the immoveable property of the judgment debtor, other than for attachment of that property, unless satisfaction of the decree cannot be obtained against his moveable property.

Execution to be first made against moveable property

152. If the decree is for an arrear of rent due in respect of an under-proprietory right, the interest of the judgment debtor in that right may, subject to the provisions of this Act, be sold in execution of the decree.

Sale of under proprietary right in execution of decree for arrears of rent

153. A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the incumbrance has been registered under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests

Registration of incumbrance created by under proprietor

154. (1) When an under proprietor creates any such incumbrance and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or the part of that rent, as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section

Proprietor's lien for rent payable by under proprietor

(2) Where after the passing of this Act an under proprietor transfers his rights or any part thereof in land, and the transferee enters into possession, the transferee shall, subject to any agreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer

155. (1) When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down

Right of preemption at execution-sale

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed:

Provided that, if a claim to the same land or lot is made by a proprietor or under-proprietor as well as by a co-sharer, the claim of the co-sharer shall prevail:

Provided also that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

## CHAPTER XI.

### GENERAL.

Registration of statutory pattas unnecessary.

156. Notwithstanding anything in the Indian Registration Act, III of 1877,<sup>1</sup> pattas granted for any term not exceeding seven years by landlords to tenants to whom section 36 or section 37 of this Act applies shall be deemed good and valid without their being registered.

Exclusion of specified areas from certain provisions of the Act.

157. The provisions of sections 4, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 shall not extend to the areas specified in Schedule D to this Act, or to any other area which the <sup>2</sup>Chief Commissioner may from time to time, by notification in the local official Gazette,<sup>3</sup> add to that Schedule, but the <sup>2</sup>Chief Commissioner may from time to time, by like <sup>3</sup>notification, extend those provisions, or any of them, to any of those areas.

Power to make rules.

158. (1) The <sup>4</sup>[Board, with the previous sanction of the <sup>2</sup>Chief Commissioner] may, from time to time, make rules <sup>5</sup>consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

(2) <sup>4</sup>[The Board] shall, before making rules under this section, publish a draft of the proposed rules in such manner as, in <sup>6</sup>[its] opinion, is sufficient.

<sup>1</sup> See now Act 16 of 1908, General Acts, Vol. VI.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> For notifications under s. 157, see U. P. Local Rules and Orders.

<sup>4</sup> The words "Board with the previous sanction of the Chief Commissioner" in sub-sections (1) and (5) of s. 158, were substituted for the words "Chief Commissioner," and the words "The Board" in sub-sections (2) and (4) for the words "The Chief Commissioner" by s. 60 of the United Provinces Act, 1890 (20 of 1890), *infra*.

<sup>5</sup> For rules under s. 158, see the U. P. Local Rules and Orders.

<sup>6</sup> The word "its" in sub-section (2) was substituted for "his" by s. 60 of Act 20 of 1890, *infra*.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) <sup>1</sup>[The Board] shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) Every rule made under this section shall be published in the local official Gazette in English and in such other language or languages as the <sup>1</sup>[Board, with the previous sanction of the <sup>2</sup>Chief Commissioner,] directs, and that publication shall be conclusive proof that the rule has been made as required by this section.

### SCHEDULE A.\*

(See section 15.)

I, *A B* of \_\_\_\_\_, &c., solemnly declare that I did personally [or by my agent *C D*] on the \_\_\_\_\_ day of \_\_\_\_\_ tender payment to *E F* at \_\_\_\_\_ (the place where the (revenue or) rent of the lands at \_\_\_\_\_, [held or] cultivated by me under [or from or jointly with] the said *E F* is usually payable) of the sum of rupees \_\_\_\_\_ as and for the whole amount due from me in respect of the (revenue or) rent of the said lands from the month of \_\_\_\_\_ to the month of \_\_\_\_\_ both inclusive. I further declare that the said *E F* refused to accept the said sum so tendered [or to give me a receipt in full forthwith for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe to the said *E F* on account of the (revenue or), rent of the said lands from the month of \_\_\_\_\_ to the month of \_\_\_\_\_ both inclusive and that I owe to the said *E F* no further sum on account of the (revenue or) rent of the said lands.

I, \_\_\_\_\_, the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

\*If this declaration is made by an agent, it must be altered accordingly.

### SCHEDULE B.\*

(See section 15.)

Court of the \_\_\_\_\_ of \_\_\_\_\_  
Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_  
To *E F* of \_\_\_\_\_, &c.

\*This is to be by endorsement on copy of the declaration under Schedule A made by the person paying the money into Court.

<sup>1</sup> See the fourth footnote on p 310, *supra*

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or your recognized agent on application. And take notice that, if you have any further claim or demand, whatsoever to make against the said *A B* in respect of the (revenue or) rent of the said lands, you must institute a suit in Court for the establishment of that claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

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### SCHEDULE C.

(See section 84.)

*Office of officer appointed to sell distrained property.*

*A B.—Distraîner.*

Whereas the said *A B* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which, the property will be sold.

Dated this            day of            188 .

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### SCHEDULE D.

(See section 157.)

(1) Parganas Kukra Mailani, Bhur, Srinagar, Nighasan, Palia, Khairigarh, Dhaurahra and Firozabad in the district of Kheri;

(2) alluvial mahals for the time being registered as such under the rules made under clause (b) of section 220 of the Oudh Land-revenue Act, 1876<sup>1</sup>; and

(3) lands heretofore or hereafter granted under the waste-land rules for the time being in force in Oudh.

XVII of  
1876.

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<sup>1</sup> See now the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, Vol. II.

THE BENGAL, [AGRA] AND ASSAM CIVIL COURTS  
ACT, 1887

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ACT No. XII of 1887.<sup>1</sup>

## THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887.

[APPLIES TO THE PROVINCE OF AGRA.]

[11th March, 1887.]

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; It is hereby enacted as follows:—

## CHAPTER I

## PRELIMINARY.

1. (1) This Act may be called the Bengal, <sup>2</sup>[Agra] and Assam Civil Courts Act, 1887. Title, extent and commencement

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the <sup>3</sup>Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts \* \* \* \* \*; and

(3) It shall come into force on the first day of July, 1887

2. (1) [*Repeal of Act VI of 1871 and Act XIX of 1877, section 1.*] Saving clause.  
*Rep. Act XII of 1891.*

(2) <sup>5</sup>\* All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under

<sup>1</sup> For Statement of Objects & for Preliminary Report of the S Final Report, see *ibid*, 1887, Pt 1 ment, 1881, pp 1132, 1169, 1414 pp 31 and 33

<sup>2</sup> The word "Agra" has been substituted for the words, "North Western Provinces" by s 2 of the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), *infra*

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>4</sup> The words "and except the Jhansi Division" were repealed by s. 9 of the United Provinces Act, 1890 (20 of 1890), *infra*

<sup>5</sup> The word "But" was repealed by the Amending Act, 1891 (12 of 1891), General Acts, Vol. IV.

Pt V, p 1455, p 957, and for see *ibid*, Supplement, and Pt VI, 1887,

the Bengal Civil Courts Act, 1871<sup>1</sup> or any enactment thereby repealed, VI or purporting expressly or impliedly to have been so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,<sup>1</sup> or to any enactment thereby repealed, shall be construed to VI refer to this Act or to the corresponding portion thereof.

## CHAPTER II.

### CONSTITUTION OF CIVIL COURTS.

Classes of  
Courts.

3. There shall be the following classes of Civil Courts under this Act, namely:—

- (1) The Court of the District Judge;
- (2) The Court of the Additional Judge;
- (3) the Court of the Subordinate Judge; and
- (4) the Court of the Munsif.

Number of  
District  
Judges,  
Subordinate  
Judges and  
Munsifs.

<sup>2</sup>[4. The Local Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed.]

5. [*Number of Munsifs.*] *Omitted by Part I of Schedule to Act 4 of 1914.*

Vacancies  
among Dis-  
trict or Sub-  
ordinate  
Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever <sup>3</sup>[an increase in the number of District or Subordinate Judges has been made under the provisions of section 4], the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge, for such period as it thinks fit in addition to the functions

<sup>1</sup> Act 6 of 1871 was repealed by s. 2 (1) of this Act.

<sup>2</sup> Section 4 was substituted by the Devolution Act, 1920 (38 of 1920).

<sup>3</sup> These words were substituted for the words "the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" by *ibid.*



developing on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be

17. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly

Vacancies  
among  
Munsifs

(2) The Local Government may, after consultation with the High Court and <sup>2</sup>[subject to the control] of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court \* \* \* appoint such Additional Judges as may be requisite

Additional  
Judges

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction

Administra-  
tive control  
of Courts

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto

Temporary  
charge of  
District  
Court

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to

<sup>1</sup> For rules, see the U P Local Rules and Orders

Section 7 does not apply to Honorary Munsifs and Benches see s. 13 of the United Provinces Honorary Munsifs Act, 1896 (U P Act 2 of 1896), *infra*, Vol II

<sup>2</sup> These words were substituted by Schedule, Pt I, of the Decentralization Act, 1914 (4 of 1914), General Acts, Vol VIII

<sup>3</sup> The words "and with the previous sanction of the Governor General in Council" were repealed by s. 3 of the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (16 of 1911), *infra*

any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of proceedings on vacation of office of Subordinate Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Courts.

13. (1) The Local Government may, by notification<sup>2</sup> in the official Gazette fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate

<sup>1</sup> Section 12 does not apply to Honorary Munsifs and Benches. *see* the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, Vol. II.

<sup>2</sup> For notifications under the clauses of this section and s. 14, *see* the U. P. Local Rules and Orders.

Judges, or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub section (1)

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section

14 (1) The Local Government may, by notification <sup>in the official Gazette,</sup> fix and alter the place or places at which any Civil Court under this Act is to be held <sup>Place of sitting of Courts</sup>

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section

15 (1) Subject to such orders as may be made by the Governor General in Council, <sup>in the case of the High Court at Calcutta and by the Local Government in other cases]</sup> the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts <sup>Vacation of Courts</sup>

(2) The list shall be published in the local official Gazette

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day

16 Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government <sup>Seals of Courts</sup>

17 (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case any proceeding in relation to that case which if that Court had not ceased to have jurisdiction might have been had therein may be had in the Court to which the business of the former Court has been transferred <sup>Continuance of proceedings of Courts ceasing to have jurisdiction</sup>

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure<sup>1</sup> or in any other enactment for the time being in force

V of 1887

## CHAPTER III

### ORDINARY JURISDICTION

18 Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends to the extent of original jurisdiction of

<sup>1</sup> For notifications under s 14 see the U P Local Rules and Orders

<sup>2</sup> These words were inserted in s 15 by the Devolution Act 1920 (33 of 1920)

<sup>3</sup> See now Act 5 of 1908 General Acts Vol VI

District or  
Subordinate  
Judge.

tends, subject to the provisions of section 15 of the Code of Civil Procedure<sup>1</sup> to all original suits for the time being cognizable by Civil Courts. XI

Extent of  
jurisdiction  
of Munsif.

<sup>2</sup>19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct, by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

<sup>3</sup>[Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

Appeals from  
District and  
Additional  
Judges.

<sup>4</sup>20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from  
Subordinate  
Judges and  
Munsifs.

<sup>4</sup>21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such

<sup>1</sup> See now Act 5 of 1908, General Acts, Vol. VI.

<sup>2</sup> Section 19 does not apply to Honorary Munsifs and Benches, see the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, Vol. II.

<sup>3</sup> This proviso was added by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), General Acts, Vol. VIII.

<sup>4</sup> As to cases pending in the Jhansi Division on the day on which Pt. I of the United Provinces Act, 1890 (20 of 1890), came into force, see s. 9 (2) of that Act, *infra*.

Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

## CHAPTER IV

### SPECIAL JURISDICTION

122. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

Power to transfer to Subordinate Judges appeals from Munsifs.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge

223. (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order

Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings

(2) The proceedings referred to in sub section (1) are the following, namely —

(a) proceedings under Bengal Regulation V, 1799,<sup>3</sup> (*to limit the Interference of the Zilla and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of persons dying intestate*),

(b) [*proceedings under Act XL of 1858 or Act IX of 1861*];  
Rep by Act VIII of 1890,

(c) [*applications for certificates under Act No. XXVII of 1860*];  
Rep by Act VII of 1889,

(d) proceedings under the Indian Succession Act, 1865,<sup>4</sup> and the Probate and Administration Act, 1881,<sup>4</sup> which cannot be disposed of by District Delegates, and

<sup>3</sup> As to cases pending in the Jhansi Division on the day on which Pt. I of the United Provinces Act, 1890 (20 of 1890), came into force see s. 9 (2) of that Act, *infra*

<sup>4</sup> Sections 23 and 24 do not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, Vol. II

<sup>5</sup> *Supra*.

<sup>6</sup> General Acts, Vols. I and III, respectively

(e) references by Collectors under section 322C of the Code of Civil Procedure.<sup>1</sup>

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Disposal of proceedings referred to in last foregoing section.

<sup>2</sup>24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge:

Provided that an appeal from an order of the Munsif in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Subordinate Judges and Munsifs with Small Cause Court jurisdiction.

<sup>2</sup>25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,<sup>3</sup> for IX of the trial of suits, cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or <sup>4</sup>[two hundred and fifty rupees] in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred:

<sup>5</sup>[Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section.]

## CHAPTER V.

### MISFEASANCE.

Suspension or removal of Judges by Local Government.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

<sup>1</sup> See now Act 5 of 1908, General Acts, Vol. VI.

<sup>2</sup> Sections 23, 24 and 25 do not apply to Honorary Munsifs and Benches. see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, Vol. II.

<sup>3</sup> For Act 9 of 1887, see General Acts, Vol. IV.

<sup>4</sup> These words were substituted for the words "one hundred rupees" by s. 4 of the Bengal, Assam and Agra Civil Courts Act, 1911 (16 of 1911), *infra*.

<sup>5</sup> This proviso was added by Pt. I. of Schedule to the Decentralization Act, 1914 (4 of 1914), General Acts, Vol. VIII.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge

Suspension  
of Subor-  
dinate Judge  
by High  
Court

(2) Whenever the High Court suspends a Subordinate Judge under sub section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit

28. (1) The High Court may appoint a commission for enquiring into alleged misconduct of a Munsif

Suspension  
or removal  
of Munsif  
by High  
Court

(2) On receiving the report of the result of the enquiry, the High Court may, if it thinks fit, remove or suspend the Munsif

(3) The provisions of Act No XXXVII of 1850<sup>1</sup> (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry

(5) The High Court may, without appointing a commission, remove or suspend a Munsif

29 (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control

Suspension  
of Munsif  
by District  
Judge

(2) Whenever a District Judge suspends a Munsif under sub section (1) he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit

## CHAPTER VI

### MINISTERIAL OFFICERS

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary

Appointment  
and removal  
of ministerial  
officers of  
District  
Courts

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

Appointment  
and removal  
of ministerial  
officers of  
other Courts.

(a) in the case of an appointment not likely to last, and not lasting, longer than two months, by those Courts, and

(b) in any other case, by the District Judge

<sup>1</sup> The Public Servants (Enquiries) Act, 1850 General Acts, Vol I

<sup>2</sup> Section 31 does not apply to Honorary Munsifs and Benches see the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s 13, *infra*, Vol II

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment  
and removal  
of ministerial  
officers on  
joint estab-  
lishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely:—

(a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being, charged with the duty of making appointments to fill temporary vacancies.

General  
powers of  
District  
Judge.

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of  
ministerial  
officers.

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

<sup>1</sup>[Provided that the Local Government may, by notification in the local official Gazette delegate to the High Court its powers under this section.]

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery of  
fines.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

## CHAPTER VII.

### SUPPLEMENTAL PROVISIONS.

Power to  
confer powers  
of Civil  
Courts on  
officers.

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

<sup>1</sup> This proviso was added by Pt. I of Schedule to the Decentralization Act, 1914 (4 of 1914), General Acts, Vol. VIII.



(a) any officer in the Chutia Nagpur, Jalpaiguri or Darjeeling District, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government \* \* \* \* \*

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested

(3) Where, in the territories mentioned in clause (a) of sub section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government delegate his functions under sub section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif

(4) Where the place at which the Court of an officer invested with powers under sub section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction

37 (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished

Certain decisions to be according to Native law

(2) In cases not provided for by sub section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience

38 (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested

Judges not to try suits in which they are interested

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity

<sup>1</sup> The words "with the previous sanction of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920)

When any such suit, proceeding or appeal as is referred to in sub-section (2) comes before any such officer, the officer shall transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the case.

The Superior Court shall thereupon dispose of the case under section 101 of the Code of Civil Procedure.<sup>1</sup>

XIV of 1887.

Nothing in this section shall be deemed to affect the extraordinary jurisdiction of the High Court.

In the cases of the last foregoing section the presiding officer shall be under the administrative control of the District Judge.

For the purposes of the Code of Civil Procedure,<sup>1</sup> the

XIV of 1887.

shall be deemed to be of a grade inferior to that of the District Judge.

Section 37 and 39 apply to

Special Small Cause

IX of 1887.

of this Act do

## SECTIONS.

8. Honorary Fellows.
9. Constitution and powers of Senate
10. [*Repealed.*]
11. [*Repealed.*]
12. [*Repealed.*]
13. [*Repealed.*]
14. [*Repealed.*]
15. [*Repealed.*]
16. Power to levy fees.
17. [*Repealed.*]
18. Examiners, officers and servants of the Senate to be deemed to be public servants.
19. Duty of Local Government to enforce Act and rules.
20. Notifications in certain cases.
21. Annual accounts and audit thereof.

## THE SCHEDULE.

PART I.—[*Repealed.*]

PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED OR TO HAVE BEEN ELECTED AND APPROVED, AS FELLOWS UNDER SECTION 5, SUB-SECTION (1), CLAUSE (b) OR CLAUSE (c).

ACT No XVIII OF 1887.<sup>1</sup>

## THE ALLAHABAD UNIVERSITY ACT, 1887.

(APPLIES TO THE UNITED PROVINCES )

[23rd September, 1887.]

An Act to establish a University at Allahabad.<sup>2</sup>

WHEREAS it has been determined to establish a University at <sup>2</sup>Allahabad; It is hereby enacted as follows:—

1. (1) This Act may be called the Allahabad University Act, 1887; Title.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1887, Pt V, p 56, for Report of the Select Committee, see *ibid*, Pt IV, p 125, and for Proceedings in Council, see *ibid*, Pt VI, pp 42, 46 and 74

The Indian Universities Act, 1904 (8 of 1904), is to be deemed to be part of this Act, see s 2 (1) of that Act, General Acts, Vol VI

<sup>2</sup> The local extent of this Act and of the Indian Universities Act, 1904 (8 of 1904), *infra*, as regards the Allahabad University, have been declared to be the United Provinces of Agra and Oudh, the Central Provinces (including Berar) and Ajmer-Merwara and the States included in the Rajputana and Central India Agencies, see *Gazette of India*, 1904, Pt I, p 627.

(2) [*Commencement.*] *Rep. by Sch. II of Act X of 1914.*

2. (1) A University shall be established at Allahabad, and the Governor General for the time being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a body corporate by the name of the University of Allahabad, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immovable, to transfer the same, to contract, and to do all other things necessary for or incidental to the purposes of its constitution.

(4) The University shall come into existence on such day<sup>1</sup> as the Local Government may, by notification in the official Gazette, appoint in this behalf.

3. The <sup>2</sup>Lieutenant-Governor of the North-Western Provinces for the time being shall be the Chancellor of the University, and the first Chancellor shall be the Honourable Sir Alfred Comyns Lyall, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Eminent Order of the Indian Empire.

4. (1) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may from time to time appoint in this behalf.

(2) Except as provided in sub-sections (3) and (4), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(3) If a Vice-Chancellor leaves India, he shall thereupon cease to be Vice-Chancellor unless the Chancellor otherwise directs.

<sup>3</sup>(4) The Honourable Sir John Edge, Knight, Queen's Counsel, Chief Justice of the High Court of Judicature for the North-Western Provinces, shall be deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December, 1889.

5. [*Fellows.*] *Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*

6. (1) [*First Fellows.*] *Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*

<sup>1</sup> The 15th November, 1887, see North-Western Provinces and Oudh Gazette, 1887, Pt. I, p. 465.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> This sub-section is now spent.

(2) The persons named in Part II of the Schedule shall, *except for the purposes of the second clause of the proviso to section 5, sub section (1),* be deemed to be Fellows appointed under clause (b) of sub section (1) of section 5 or elected and approved under clause (c) of that sub section

7 (1) [*Vacation of office of Fellow*] *Rep Section 29, Indian Universities Act, 1904 (VIII of 1904)*

(2) The Chancellor may, with the consent of not less than two thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow \* \* \* \* \*

(3) If any Fellow leaves India without the intention of returning thereto or is absent from India for more than four years, he shall thereupon cease to be a Fellow

8 Every person who has filled the office of Patron or Chancellor shall be an honorary Fellow of the University, but shall not be a member of the Senate Honorary  
Fellows

9 (1) The Chancellor, Vice Chancellor and Fellows for the time being shall form the Senate of the University Constitution  
and powers of  
Senate

(2) The Senate shall have the entire management of and superintendence over, the affairs, concerns and property of the University and shall provide for that management and exercise that superintendence in accordance with the rules for the time being in force under this Act

10 to 15 [*As to meetings, proceedings and functions of Senate, etc*] *Rep Section 29, Indian Universities Act 1904 (VIII of 1904)*

16 (1) The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act Power to  
levy fees

(2) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University

17 [*Power to make rules*] *Rep Section 29, Indian Universities Act 1904 (VIII of 1904)*

18 (1) Every examiner, officer or servant appointed or remunerated by the Senate shall, for the purposes of the Indian Penal Code<sup>2</sup> be deemed to be a public servant Examiners,  
officers and  
servants of  
the Senate to  
be deemed to  
be public  
servants

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall for the purposes of sub section

<sup>1</sup> The words appointed under clause (b) of sub-s (1) of s 5 or elected and approved under clause (c) of that sub section were repealed by s 29 of the Indian Universities Act 1904 (8 of 1904) General Acts, Vol VI

<sup>2</sup> General Acts Vol I

(1), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University" were inserted after the words "with any Lieutenant-Governor."

Duty of Local Government to enforce Act and rules.

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules.

Notifications in certain cases.

20. All appointments made under section 4, all \* \* \* \*<sup>\*1</sup> elections approved , \* \* \* \*<sup>\*1</sup> all degrees conferred \* \* \* \*<sup>2</sup> and all rules made \*  
\* \*<sup>\*2</sup> shall be notified in the local official Gazette.

Annual accounts and audit thereof.

21. (1) The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

(2) For the purposes of the examination and audit the auditor appointed by the Local Government may by letter require the production before him of any books, vouchers and other documents which he deems necessary and may require any person holding or accountable for any such books, vouchers or documents to appear before him at the examination and audit or adjournment thereof and to answer all questions which may be put to him with respect thereto or to prepare and submit any further statement which the auditor considers necessary in explanation thereof.

(3) Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon him, refuses or neglects to comply with a requisition under sub-section (2) shall be punished for every such refusal or neglect with fine which may extend to one hundred rupees.

(4) When the auditor has completed the examination and audit, he shall report the result thereof to the Local Government, and that Government may thereupon disallow any payment made contrary to law and surcharge it on the person making or authorizing the making of the illegal payment.

(5) If the amount of a payment so surcharged is not paid, as the Local Government directs, within fourteen days after demand being

<sup>1</sup> The words and figures "appointments made and;" "under s. 5, sub-s. (1), clauses (b) and (c)," were repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), General Acts, Vol VI.

<sup>2</sup> The words and figures "under sections 14 and 15" and "under section 17," were repealed by *ibid.*

made therefor, the Secretary of State for India in Council may proceed by suit in any Court of competent jurisdiction to recover the amount from the person on whom the surcharge was made.

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## THE SCHEDULE.

(See section 6.)

### PART I.

[*Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*]

### PART II

Persons to be deemed to have been appointed, or to have been elected and approved, as Fellows under <sup>1</sup>section 5, sub-section (I), clause (b) or clause (c):—

1. The Hon'ble James Wallace Quinton, Bachelor of Arts, Bengal Civil Service, Member of the Board of Revenue of the North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Additional Member of the Council of the Governor General for making Laws and Regulations, Member of the Council of the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

2. The Hon'ble William Tyrrell, Bachelor of Arts, Bengal Civil Service, Judge of the High Court of Judicature for the North-Western Provinces

3. The Hon'ble Syed Ahmad, Khan Bahadur, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Member of the Council of the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

4. The Hon'ble Syed Mahmud, Barrister-at-Law, Judge of the High Court of Judicature for the North-Western Provinces.

5. The Hon'ble Pandit Ajudhya Nath, Member of the Council of the <sup>2</sup>Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

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<sup>1</sup> Section 5 is now repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), General Acts, Vol. VI

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh

6. Lieutenant-Colonel John Greenlaw Forbes, of the Royal Engineers, Fellow of the Calcutta University, Joint Secretary to Government, North-Western Provinces and Oudh, in the Public Works Department.

7. Surgeon-Major James Cleghorn, Doctor in Medicine, Civil Surgeon, Lucknow.

8. Raja Shiva Prasada, Companion of the Most Exalted Order of the Star of India.

9. Mortimer Sloper Howell, Esq., Bengal Civil Service, District Judge, North-Western Provinces, Companion of the Most Eminent Order of the Indian Empire, Fellow of the Calcutta University.

10. Raja Jai Kishan Das, Bahadur, Deputy Collector, North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University.

11. Raja Udai Pratab Singh, Taluqdar of Bhinga in the Bahraich District.

12. Brigade-Surgeon Emanuel Bonavia, Doctor in Medicine, Civil Surgeon, Etawah.

13. Mahamahopadhyaya Bapu Deva Shastri, Sanskrit College, Benares, Companion of the Most Eminent Order of the Indian Empire.

14. John C. Nesfield, Esq., Master of Arts, Inspector of Schools, Oudh Division.

15. Kenneth Deighton, Esq., Bachelor of Arts, Inspector of Schools, Rohilkhand Division.

16. William Charles Benett, Esq., Bengal Civil Service, Secretary to the Government of the North-Western Provinces and Oudh.

17. Michael J. White, Esq., Master of Arts, Principal, Canning College; Lucknow.

18. Alexander Thomson, Esq., Principal, Agra College.

19. Babu Promada Das Mittra, Honorary Magistrate; Benares.

20. Charles H. Hill, Esq., Barrister-at-Law, Allahabad.

21. William H. Wright, Esq., Bachelor of Arts, Professor of English Literature, Muir Central College, Allahabad.

22. W. N. Boutflower, Esq., Bachelor of Arts, Professor of Mathematics, Muir Central College, Allahabad.

23. Shams-ul-Ulama Maulavi Zaka-ulla; Khan Bahadur, *Emeritus*, Professor of Arabic, Muir Central College, Allahabad.



24. Samuel Alexander Hill, Esq., Bachelor in Science, Professor of Physical Science, Muir Central College, Allahabad, and Meteorological Reporter to the Government.

25. The Reverend John Hewlett, Master of Arts, Principal, London Mission College, Benares.

26. Pandit Lakshmi Shankar Misra, Master of Arts, Professor of Physical Science, Benares College.

27. Theodore Beck, Esq., Bachelor of Arts, Principal, Muhammadan Anglo-Oriental College, Aligarh.

28. Pandit Aditya Ram Bhattacharya, Master of Arts, Professor of Sanskrit, Muir Central College, Allahabad.

29. Munshi Nawal Kishore, Lucknow.

30. Babu Bireshwar Mittra, Professor of Law, Benares College.

31. Lala Mukand Lal, Rai Bahadur, Honorary Assistant Surgeon to the Viceroy, Lecturer, Medical College, Agra.

32. Babu Ram Saran Das, Master of Arts, Fyzabad.

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## THE NORTH-WESTERN PROVINCES AND OUDH ACT, 1890.

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ACT No XX OF 1890 <sup>1</sup>

## THE NORTH-WESTERN PROVINCES AND OUDH ACT, 1890

(APPLIES TO THE UNITED PROVINCES )

[16th October, 1890 ]

An Act to provide for the better administration of the North-Western Provinces and Oudh and to amend certain enactments in force in those Provinces and in Oudh

WHEREAS it is expedient to provide for the better administration of the territories respectively administered by the Lieutenant Governor of the North-Western Provinces and the Chief Commissioner of Oudh, and for that purpose to amend certain enactments which are in force in the said Provinces and in Oudh, It is hereby enacted as follows —

1. This Act may be called the North-Western Provinces and Oudh Act, 1890

## PART I

## THE NORTH-WESTERN PROVINCES

2. This Part shall come into force on such day<sup>2</sup> as the said <sup>3</sup>Lieutenant-Governor may, by notification in the official Gazette, direct

Commencement of Part I

3 and 4 [*Amendment of Act XIX of 1873* ] *Rep United Provinces Land-revenue Act, 1901 (U P Act III of 1901)*

<sup>1</sup> For Statement of Objects and Reasons see Gazette of India, 1890, Pt V, p 121, for Report of the Select Committee, see *ibid*, p 135, and for Proceedings in Council, see *ibid* Pt VI, pp 17 and 138

<sup>2</sup> The 1st April, 1891, see North Western Provinces and Oudh Gazette, 1891, Pt I, p 130

<sup>3</sup> Now Governor

And whereas it has been determined to annex the Jhansi Division, comprising the districts of Jhansi, Jalaun and Lalatpur, to the Allahabad Division;

And whereas the said Jhansi Division is a scheduled district under the Scheduled Districts Act, 1874;<sup>1</sup>

XIV of 1874

And whereas it is expedient that the law in force in the said division should, on such annexation, be the same as the law in force in the temporarily-settled districts comprised in the Allahabad Division, and that the said division should cease to be a scheduled district;

It is hereby enacted as follows:—

Laws in force in certain districts of the Allahabad Division to apply to Jhansi.

5. (1) All enactments which shall on the day<sup>2</sup> when this Part comes into force be in force in the said temporarily-settled districts and not in the said Jhansi Division shall be deemed to come into force in that division on and from the said day.

(2) Except the Jhansi Encumbered Estates Act, 1882<sup>3</sup> and the Jhansi and Morar Act, 1886,<sup>4</sup> all enactments which shall on the said day<sup>2</sup> be in force in the said division and not in the said temporarily-settled districts, including the Jhansi Courts Act, 1867, and Act No. XXVII of 1867, shall be deemed to be repealed on and from the said day<sup>2</sup> in the said division.

6. [Amendment of Act XVI of 1882.] *Rep. Bundelkhand Encumbered Estates Act, 1903 (United Provinces Act I of 1903).*

Discharge of functions assigned to Deputy Commissioner and Commissioner by Act XVII of 1886.

7. The functions assigned to the Deputy Commissioner and the Commissioner by the Jhansi and Morar Act, 1886,<sup>4</sup> shall be discharged by the District Judge and the High Court, respectively, and references to Courts in the Jhansi District subordinate to the Commissioner shall be deemed to apply to the Civil Courts established in that district under the Bengal, <sup>5</sup>North-Western Provinces and Assam Civil Courts Act, XII of 1887. 1887.

Jhansi Division to cease to be a scheduled district.

8. (1) On and from the said day<sup>2</sup> the said division shall cease to be a scheduled district; and in Part IV of the first schedule to the Scheduled Districts Act, 1874,<sup>1</sup> and in Part IV of the sixth schedule to the Local Extent Act, 1874,<sup>6</sup> the words “the Jhansi Division comprising the Districts of Jhansi, Jalaun and Lalatpur,” shall be repealed.

(2) Section 4 of the Jhansi and Morar Act, 1886,<sup>4</sup> and the last paragraph of the preamble to Part I of that Act, ending with the words “the Jhansi District,” shall also be repealed.

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> That is, the 1st April, 1891.

<sup>3</sup> Now repealed by the Bundelkhand Encumbered Estates Act, 1903 (U. P. Act 1 of 1903), *infra*, Vol. II.

<sup>4</sup> *Supra*.

<sup>5</sup> *Supra*. “Agra” has been substituted for “North-Western Provinces” by Act 16 of 1911, *infra*.

<sup>6</sup> General Acts, Vol. II.

9. (1) In section 1, sub section (2), of the <sup>1</sup>Bengal, North Western Provinces and Assam Civil Courts Act, 1887, the words "and except the Jhansi Division" shall be repealed

Application  
of Act XII of  
1887 to  
Jhansi, and  
disposal of  
pending cases

(2) All cases or proceedings pending in any Civil Court in the said division on the said day<sup>2</sup> shall be disposed of as follows —

- (a) if pending in the Court of a Tahsildar or of an Assistant Commissioner of the second class—by the Munsif,
- (b) if pending in the Court of an Assistant Commissioner of the first class—by the Subordinate Judge,
- (c) if pending in the Court of a Deputy Commissioner—by the District Judge,
- (d) if pending in the Court of the Commissioner—by the District Judge, unless the case pending is an appeal from a decree or order of the Deputy Commissioner, in which case the appeal shall be disposed of by the High Court

(3) For the purposes of sections 20 to 22, both inclusive, of the <sup>1</sup>Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, all decrees and orders passed by Civil Courts in the said division and not appealed against before the said day<sup>2</sup> shall be deemed—

- (a) if passed by the Court of a Tahsildar or an Assistant Commissioner of the second class—to have been passed by a Munsif,
- (b) if passed by the Court of an Assistant Commissioner of the first class—to have been passed by a Subordinate Judge,
- (c) if passed by the Court of a Deputy Commissioner or the Commissioner—to have been passed by a District Judge

(4) Where any Civil Court ceases by reason of the passing of this Act to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court is transferred by sub section (2), but this sub section shall not apply to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure<sup>3</sup>

(5) In the case of appeals from the decrees and orders mentioned in sub section (3) the period of limitation shall be calculated in accordance with the provisions of section 15 of the Jhansi Courts Act, 1867,<sup>4</sup> as though this Act had not been passed

<sup>1</sup> *Supra* Read now 'Agra for North Western Provinces, see Act 16 of 1911, *infra*

<sup>2</sup> That is, the 1st April, 1891

<sup>3</sup> See now Act 5 of 1908 General Acts, Vol VI

<sup>4</sup> Act 18 of 1867 is repealed by s 5 (2) of this Act

## PART II.

## OUDH.

Commence-  
ment of Part  
II.

**10.** This Part shall come into force on such day<sup>1</sup> as the Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Board of Re-  
venue of the  
North-West-  
ern Provinces  
to be the  
Board of Re-  
venue of, and  
Chief Reve-  
nue authority  
in, Oudh.

**11.** (1) On and from the day on which this Part comes into force the Board of Revenue constituted under the North-Western Provinces Land Revenue Act, 1873,<sup>2</sup> shall be deemed to be also the Board of Revenue XIX of 1873 for the territories administered by the Chief Commissioner of Oudh,<sup>3</sup> and shall be known and designated as the Board of Revenue of the North-Western Provinces and Oudh.

(2) All references made in any enactment as amended by this Part to the Board of Revenue shall be deemed, so far as they relate to Oudh, to refer to the said Board.

(3) In any enactment for the time being in force in the territories administered by the <sup>3</sup>Chief Commissioner of Oudh, in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the said day,<sup>1</sup> be construed, so far as the said territories are concerned, as referring to the Board of Revenue of the North-Western Provinces and Oudh.

**12 to 16.** [*Amending Act 17 of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

**17.** [*Repeal of part of section 14, Act XVII of 1876.*] *Rep. Act XII of 1891.*

**18 to 21.** (1) [*Amending Act 17 of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

(2) [*Repeal of part of section 4, Act XIV of 1878.*] *Rep. Act XII of 1891.*

**22 to 27.** [*Amending Act of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

<sup>1</sup> The 1st January, 1891—see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 661.

<sup>2</sup> Since repealed by the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), s. 2, *infra*, Vol. II, but not so as to affect anything done under the Act of 1873—see s. 3.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

28 to 31. [Amending Act 17 of 1876 ] Rep United Provinces Court of Wards Act, 1899 (U P Act III of 1899)

32 to 34 [Amending Act 17 of 1876 ] Rep United Provinces Land revenue Act, 1901 (U P Act III of 1901)

35 [Repeal of part of section 5, Act XIV of 1878, repeal of section 45 and amendment of the second schedule of Act XVIII of 1876 ] Rep Act XII of 1891

36 and 37 [Amending Act IV of 1878 ] Rep Oudh Local Rates Act, 1894 (U P Act V of 1894)

1879 138 \* \* \* \* \* in section 7 of the Destruction of Records Act, Amendment of section 7  
1879 after the words "the North Western Provinces" the words "and Act III of  
the Chief Commissioner of Oudh" shall be inserted 1879

1879 39 In section 17 of the Oudh Civil Courts Act, 1879,<sup>4</sup> after the Amendment of section 17,  
words "Civil Procedure, section fifteen," there shall be inserted the Act XIII of  
words "and of any other enactment for the time being in force", and 1879  
there shall be substituted for the words "five hundred rupees" in  
clause (c) of the same section the words "one thousand rupees," and  
for the proviso to the same section the following, namely —

[*Supra*, p 198 ]

40 For section 18 of the same Act the following shall be substituted, New section  
namely — substituted  
for section 18

[*Supra*, p 199 ]

41 In section 24 of the same Act, for the words "fifty rupees" the Amendment of  
words "one hundred rupees" shall be substituted section 24

42 In section 27 of the same Act, for the words "Judicial Commissioner" the words "District Judge" shall be substituted Amendment of  
section 27

43 [Amendment of sections 3 and 10, Act XXII of 1881 ] Rep  
Excise Act, 1896 (XII of 1896)

of 44 (1) In section 3 of the Oudh Rent Act, 1886, after clause (1) Amendment of  
there shall be inserted the following, namely — section 3  
Act XII of  
1896

[*Supra*, p 266 ]

(2) For clause (13) of the same section the following shall be substituted namely —

[*Supra*, p 267 ]

<sup>1</sup> Section 38 has been virtually repealed by the Destruction of Records Act, 1917 (5 of 1917), which has repealed Act 3 of 1879

<sup>2</sup> The words "In section 3 clause (7) of the Indian Stamp Act 1879 and were repealed by the Indian Stamp Act 1899 (2 of 1899) General Acts Vol V

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh

<sup>4</sup> *Supra*

Amendment of section 32, Act XXII of 1886. 45. In section 32, sub-section (2), of the same Act, for the words "one month" the words "three months" shall be substituted.

Amendment of section 108. 46. To section 108 of the same Act, before the words "Courts other than" there shall be prefixed the words "except in the way of appeal as hereinafter provided."

Amendment of section 109. 47. In section 109, clause (5), of the same Act, for the words "the Judicial Commissioner" the words "the Board" shall be substituted.

48. [*Repeal of part of section 115, Act XXII of 1886.*] *Rep. Act XII of 1891.*

New section substituted for section 116. 49. For section 116 of the same Act the following shall be substituted, namely:—

[*Supra*, p. 301.]

50. [*Repeal of section 117, Act XXII of 1886.*] *Rep. Act XII of 1891.*

Amendment of section 118. 51. In section 118, sub-section (1), clause (c), of the same Act, for the words "to the Judicial Commissioner" the words "to the Board" shall be substituted.

New section substituted for section 119. 52. For section 119 of the same Act the following shall be substituted, namely:—

[*Supra*, p. 302.]

New section inserted after section 119. 53. After section 119 of the same Act the following shall be inserted, namely:—

[*Supra*, p. 302.]

Pending appeals. 54. All appeals pending when this Part comes into force<sup>1</sup> from decrees or orders passed under the same Act shall be disposed of as if this Act had not been passed:

Provided that the <sup>2</sup>Chief Commissioner may, by order, transfer to the District Judge any appeals then pending before the Commissioner or Collector in cases in which the appeal will, under the Oudh Rent Act, XXII of 1886,<sup>3</sup> as amended by this Part, lie to the District Judge.

<sup>1</sup> i.e., the 1st January, 1891.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> *Supra*.



55. After section 120 of the same Act the following shall be inserted, namely —

New section inserted after section 120, Act XX of 1886

[*Supra*, p 303]

56. [*Repeal of part of section 122, Act XXII of 1886*] *Rep Act XII of 1891*

57. In section 123 of the same Act there shall be substituted for the words "The Judicial Commissioner" the words "The Board or the Commissioner," for the words "subordinate to him" the words "subordinate to the Board or the Commissioner," and for the words "competent to dispose of it" the words "competent as regards the nature of the case to dispose of it"

Amendment of section 123

58. In section 124 of the same Act, for the words "the Chief Commissioner" in each place where they occur the words "the Board" shall be substituted

Amendment of section 124.

59. After section 124 of the same Act the following sections shall be inserted, namely —

Sections inserted after section 124

[*Supra*, p 304]

60. In section 158 of the same Act there shall be substituted for the words "Chief Commissioner" in sub sections (1) and (5) the words "Board, with the previous sanction of the Chief Commissioner," and for the words "The Chief Commissioner" in sub sections (2) and (4) the words "The Board," and for the word "his" in sub section (2) the word "its"

Amendment of section 158.

61. In section 16 of the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889, there shall be inserted after the words and figures "section 108" the word and figure "clause (2)"

Amendment of section 16 Act IX of 1889

### PART III

#### THE NORTH-WESTERN PROVINCES AND OUDH

62. This part shall come into force on such day<sup>2</sup> as the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh may, by notification in the official Gazette, direct

Commencement of Part III

<sup>1</sup> Section 61 has been virtually repealed by U P Act 4 of 1906 which repealed Act 9 of 1889

<sup>2</sup> The 1st January, 1891, see North Western Provinces and Oudh Gazette, 1890, Pt J, p 661

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh

Place where  
the Board  
may sit.

63. (1) Notwithstanding anything \* \* \* \* \*<sup>1</sup> in section 128 of the Oudh Rent Act, 1886,<sup>2</sup> the Board of Revenue of the North-Western Provinces and Oudh shall, for the disposal of cases under those Acts, sit in such place or places in the North-Western Provinces or Oudh as the said<sup>3</sup> Lieutenant-Governor and Chief Commissioner may, by notification in the official Gazette,<sup>4</sup> appoint in respect to cases under either of those Acts. XXII of 1886.

(2) for the disposal of cases other than those referred to in sub-section (1) the said Board may, subject to the orders of the said<sup>3</sup> Lieutenant-Governor and Chief Commissioner, sit in any place in the North-Western Provinces or Oudh that the Board thinks fit.

64. [Amendment of section 4, Act XIX, of 1873.] Rep. Agra and Oudh Land-revenue Act, 1901 (U. P. Act III of 1901).

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ACT No. VIII OF 1891.<sup>5</sup>

[APPLIES TO THE UNITED PROVINCES.]

[6th March, 1901.]

An Act to extend the Indian Easements Act, 1882,<sup>6</sup> to certain areas in which that Act is not in force.

WHEREAS it is expedient to extend the Indian Easements Act, 1882,<sup>6</sup> V of 1882. to certain areas in which that Act is not in force; It is hereby enacted as follows:—

Extension of  
Act V 1882,  
to Bombay  
and the  
North-West-  
ern Provinces  
and Oudh.

1. The Indian Easements Act, 1882,<sup>6</sup> is hereby extended to the territories respectively administered by the Governor of Bombay in Council and the<sup>3</sup> Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh. V of 1882.

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<sup>1</sup> Section 63, so far as it relates to Act 12 of 1881, that is the words “in section 152 of the North-Western Provinces Rent Act, 1881, or” were repealed by the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *infra*, Vol. II.

<sup>2</sup> *Supra*.

<sup>3</sup> Now the Governor of the United Provinces of Agra and Oudh.

<sup>4</sup> For notification declaring that the Board of Revenue may sit at the head-quarters of any district of the United Provinces, see U. P. Local Rules and Orders.

<sup>5</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1891, Pt. V, p. 1; for Report of the Select Committee, see *ibid*, Pt. V, p. 18; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 2 and 35.

<sup>6</sup> *Supra*.

ACT No. XIV of 1891.<sup>1</sup>

## THE OUDH COURTS ACT, 1891.

[APPEALS TO THE PROVINCE OF OUDH.]

[21st March, 1891.]

An Act to amend the constitution of the Court of the Judicial Commissioner of Oudh, and alter the Law with respect to Second Appeals and other matters in that Province.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of Oudh, and alter the law with respect to second appeals and other matters in that province; It is hereby enacted as follows:—

1. (1) This Act may be called the Oudh Courts Act, 1891.

Title and  
commence-  
ment.

(2) It extends to all the territories for the time being administered by the <sup>2</sup>Chief Commissioner of Oudh \* \* \* \* \*

2. [Repeals, etc.] *Rep. Act XVI of 1897.*

3. In this Act, unless there is something repugnant in the subject or context, the expressions "High Court" and "Chief Justice" mean the High Court of Judicature for the North-Western Provinces and the Chief Justice of that Court, respectively. Definitions.

<sup>3</sup>[4. (1) The Local Government, \* \* \* \* \* may, by a notification in the official gazette, appoint three or more persons to be Additional Judicial Commissioners, and to exercise jurisdiction as such in the Court of the Judicial Commissioner of Oudh. Appointment of Additional Judicial Commissioner.

(2) Every person so appointed shall hold his office during the pleasure of the Local Government.

(3) On the occurrence of a vacancy in the office of Judicial Commissioner or an Additional Judicial Commissioner, or during the absence of the Judicial Commissioner or of an Additional Judicial Commissioner the

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 22, for Report of the Select Committee, see *ibid*, p. 117, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 17 and 112.

<sup>2</sup> The word "and" and clause "(5) It shall come into force on the first day of April, 1891," were repealed by s. 9 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897), *infra*. Now the Governor of the United Provinces of Agra and Oudh.

<sup>3</sup> This section was substituted by s. 2 of the Oudh Courts (Amendment) Act, 1917 (U. P. Act 2 of 1917), *infra*, Vol. III.

<sup>4</sup> The words "with the previous sanction of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920).

Local Government may, by a notification in the official gazette, appoint such person as it thinks fit to act as Judicial Commissioner or an Additional Judicial Commissioner; and the person so appointed may exercise jurisdiction as Judicial Commissioner or an Additional Judicial Commissioner until some person has been appointed to fill the vacancy under section 6 of the <sup>1</sup>Oudh Civil Courts Act, 1879, or under this section, and <sup>XIII of 1879.</sup> has entered on the discharge of the duties of his office, or until the absent Judicial Commissioner or Additional Judicial Commissioner has returned from his absence and has resumed charge of the duties of his office, or until the Local Government sees fit to cancel his appointment, as the case may be.]

Jurisdiction  
of Additional  
Judicial Com-  
missioner and  
distribution  
of business.

<sup>2</sup>[5. (1) Subject to the other provisions of this Act, an Additional Judicial Commissioner shall exercise the same jurisdiction as the Judicial Commissioner may exercise under any enactment for the time being in force, but only in such cases as the Judicial Commissioner may direct.

(2) The Judicial Commissioner may, from time to time, transfer any case with respect to which he may have directed an Additional Judicial Commissioner to exercise jurisdiction and of which the hearing before such Additional Judicial Commissioner has not commenced, for hearing and disposal to his own file or to the file of <sup>3</sup>[another Additional Judicial Commissioner] (if any).

(3) Where this Act or any other enactment for the time being in force requires a case to be heard by a bench of two Judges of the Court of the Judicial Commissioner of Oudh and that Court for the time being consists of three <sup>4</sup>[or more] Judges, the Judicial Commissioner shall, from time to time, determine what two Judges shall constitute such bench.]

Law appli-  
cable to Addi-  
tional Judi-  
cial Commis-  
sioner.

6. Subject to the other provisions of this Act, every enactment for the time being applicable to the Judicial Commissioner shall apply to <sup>5</sup>[an] Additional Judicial Commissioner when exercising any jurisdiction under the last foregoing section, as if he were the Judicial Commissioner.

7. (1)<sup>6</sup>. \* \* \* \* \*

Confirmation  
of capital  
sentences by  
a bench.

(2) [If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and any such case as is referred to in

<sup>1</sup> *Supra*.

<sup>2</sup> Substituted for the original section by s. 3 of the Oudh Courts Act (1891), Amendment Act, 1897 (16 of 1897), *infra*.

<sup>3</sup> These words were substituted for the words "the other Additional Judicial Commissioner" by s. 3 of the Oudh Courts (Amendment) Act, 1917 (U. P. Act 2 of 1917), *infra*, Vol. II.

<sup>4</sup> These words were inserted by s. 3 of *ibid*.

<sup>5</sup> The word "an" was substituted for the word "the" by s. 4 of Act 16 of 1897, *infra*.

<sup>6</sup> Sub-section (1) as s. 7, was repealed by s. 5 of *ibid*.

'section 377' of the Code of Criminal Procedure, 1882,]<sup>2</sup> is heard before the Judicial Commissioner and the Additional Judicial Commissioner and they are divided in opinion, they shall submit the case with their opinions thereon to the High Court to be laid before such Judge, or such bench of two or more Judges, of that Court as the Chief Justice may appoint

(3) Such Judge or bench, after such examination and hearing as he or it thinks fit, shall deliver his or its opinion in writing and cause a copy thereof under the signature of the Registrar of the High Court to be transmitted to the Judicial Commissioner, and the Judicial Commissioner, and the Additional Judicial Commissioner sitting together shall, on receipt of the copy proceed to dispose of the case in conformity with the opinion of the Judge or bench

(4) When the Chief Justice has appointed a bench of two or more Judges of the High Court under sub section (2), and the Judges differ as to the opinion to be delivered, communicated and followed under sub-section (3), the opinion to be so delivered, communicated and followed shall be—

- (a) if there is a majority of the Judges, the opinion of the majority, and
- (b) if the Judges are equally divided, the opinion of the senior Judge

8 Any of the following proceedings namely —

- (a) an appeal from an original decree or order of a District Judge or Additional Judge,
- (b) an appeal which under section 18 sub section (1), of the Oudh Civil Courts Act, 1879,<sup>3</sup> as amended by the North-Western Provinces and Oudh Act, 1890<sup>4</sup>, lies from a decree or order of a Subordinate Judge to the Judicial Commissioner
- (c) any other appeal, whether civil or criminal, or any application or other matter, with respect to which appeal, or application or other matter the Judicial Commissioner or [an]<sup>4</sup> Additional Judicial Commissioner, as the case may be, before whom it is pending has certified under his hand that it should in his opinion be heard by two Judges,

Hearing of  
other cases  
by a bench.

shall be heard by <sup>5</sup>[a bench consisting of two Judges of the Court of the Judicial Commissioner of Oudh]

<sup>1</sup> See now the same section of Act V of 1893 Genl Acts Vol V

<sup>2</sup> These words were substituted for the word "When any such case as is referred to in that section of the Code by s 5 of Act 16 of 1897, *infra*"

<sup>3</sup> *Supra*

<sup>4</sup> The word

<sup>5</sup> These words

Additional Judge

the by s 6 of *ibid*

the Judicial Commissioner and the by *ibid*

Provided, with respect to clauses (a) and (b), as follows, namely:—

- (i) that the amount or value of the subject-matter of the suit in the Court of first instance was ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to the Judicial Commissioner is the same sum or upwards, or
- (ii) that the decree or order appealed from involves, directly or indirectly, some claim or question to, or respecting property of like amount or value.

Rules in case  
of reference.

9. <sup>1</sup>[If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and] in any case before the Judicial Commissioner and the Additional Judicial Commissioner sitting together, other than a case for which provision is made in section 7 of this Act, a difference of opinion arises, the following rules shall be observed:—

- (a) If the case is a civil case, then, unless the Judicial Commissioner and the Additional Judicial Commissioner concur in a decision reversing or varying the decree or order under their consideration, such decree or order shall be upheld:

Provided that if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either the Judicial Commissioner or the Additional Judicial Commissioner is of opinion that the question should be referred to the High Court, the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question and forward such statement, with their respective opinions on the question, to the High Court.

- (b) If the case is a criminal case, then the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

Procedure on  
reference un-  
der last fore-  
going section.

10. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court by a bench constituted by two or more Judges as the Chief Justice may determine, shall decide the question referred to therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Additional Judicial Commissioner sitting together shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

<sup>1</sup> These words were substituted for the word "Whenever" by s. 7 of Act 16 of 1897, *infra*.

(2) When the Judges differ as to the decision of any such question, the decision to be given, communicated and followed under sub section (1), shall be—

(a) if there is a majority of the Judges, the decision of the majority, and

(b) if the Judges are equally divided, the decision of the senior Judge

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case

**II** (1) and (2) [*Repeal of certain portions of Act XIII of 1879*]  
*Rep Act XVI of 1897, s 9 (2)*

(3) For the last paragraph of section 23 of the same Act the following shall be substituted, namely —

Amendment  
to section 23  
of Act XIII  
of 1879

[*Supra*, p 200]

<sup>1</sup>[12 The Judicial Commissioner may, from time to time with the previous sanction of the Local Government, by notification in the official Gazette, make rules<sup>2</sup> to provide for—

Power to  
make rules  
as to judgments,  
evidence and  
affidavits

(1) the recording of judgments, orders and sentences,

(2) the taking down of the evidence of witnesses, and

(3) the admission of affidavits as evidence of the matters to which such affidavits relate,

and the Court of the Judicial Commissioner of Oudh shall, on the publication of any such rules, be bound thereby instead of by such parts of the <sup>3</sup>Code of Criminal Procedure, 1882, and the <sup>4</sup>Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may, in accordance with such rules, permit the admission of affidavits as evidence of the matters aforesaid ]

<sup>1</sup> S 12 was added by s 8 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897) *infra*

<sup>2</sup> For rules made in exercise of this power by the Judicial Commissioner of Oudh, see the U P Local Rules and Orders

<sup>3</sup> See now Act 5 of 1898, Genl Acts Vol V

<sup>4</sup> See now Act 5 of 1908 Genl Acts Vol VI

ACT No. XVI of 1897.<sup>1</sup>

[APPLIES TO THE PROVINCE OF OUDH.]

[5th November, 1897.]

## An Act to amend the Oudh Courts Act, 1891.

WHEREAS it is expedient to amend the Oudh Courts Act, 1891; It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Oudh Courts Act (1891) Amendment Act, 1897; and

(2) It shall come into force at once.

Amendment  
of section 4,  
Act XIV,  
1891.

<sup>2</sup>2. \* \* \* \* \*

Substitution  
of new sec-  
tion for sec-  
tion 5, Act  
XIV, 1891.

3. For section 5 of the said Act the following section shall be substituted, namely:—

[*Supra*, p. 344.]

Amendment  
of section 6,  
Act XIV,  
1891.

4. In section 6 of the said Act, for the word “the”, where it occurs before the words “Additional Judicial Commissioner,” the word “an” shall be substituted.

Amendment  
of section 7,  
Act XIV,  
1891.

5. In section 7 of the said Act, sub-section (1) is repealed, and, in sub-section (2), for the first fourteen words the following shall be substituted namely:—

[*Supra*, p. 344.]

Amendment  
of section 8,  
Act XIV,  
1891.

6. In section 8 of the said Act, for the word “the” where it first occurs before the words “Additional Judicial Commissioner”, the word “an” shall be substituted, and for the words “the Judicial Commissioner and the Additional Judicial Commissioner sitting together” the words “a bench consisting of two Judges of the Court of the Judicial Commissioner of Oudh” shall be substituted.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 118, and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 224 and 248.

<sup>2</sup> *Supra*.

<sup>3</sup> Section 2 has been virtually repealed by s. 2 of the Oudh Courts (Amendment) Act, 1917 (U. P. Act 2 of 1917), *infra*, Vol. III, which has substituted a new section for the original s. 4 of Act 14 of 1891, *supra*.



1899: Act XVI.] *Northern India Canals and Drainage.*

7. In section 9 of the said Act, for the word "Whenever" the following shall be substituted, namely:—

Amendment of section 9, Act XIV, 1891.

[*Supra*, p. 346.]

8. After section 11 of the said Act the following section shall be added, namely:—

Addition of new section after section 11, Act XIV, 1891.

[*Supra*, p. 347.]

9. (1) In section 1 of the said Act, the words and figures "and (3) it shall come into force on the first day of April, 1891," are repealed.

Repeal of certain other parts of Act XIV, 1891.

(2) Section 2 and sub-sections (1) and (2) of section 11 of the said Act are repealed.

ACT No. XVI of 1899.<sup>1</sup>

[APPLIES TO THE UNITED PROVINCES.]

[14th July, 1899.]

An Act further to amend the Northern India Canal and Drainage Act, 1873.

WHEREAS it is expedient further to amend the Northern India Canal and Drainage Act, 1873; It is hereby enacted as follows:—

1. (1) This Act may be called the Northern India Canal and Drainage (Amendment) Act, 1899;

Short title.

(2) [*Commencement.* *Rep. by the Secord Repealing and Amending Act, 1914, (17 of 1914).*]

2. To section 36 of the Northern India Canal and Drainage Act, 1873, the following paragraph shall be added, namely:—

Addition to section 36, Act VIII, 1873.

[*Supra*, p. 149.]

3. In section 47 of the said Northern India Canal and Drainage Act, 1873, for the words "or tenants" the words "tenants or sub-tenants" shall be substituted.

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<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1899, Pt. V, p. 71; and for Proceedings in Council, see *ibid*, pp. 184 and 188.

THE ASSAM LABOUR AND EMIGRATION ACT, 1901  
(VI OF 1901).

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THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT BETWEEN  
LABOURER AND EMPLOYER.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

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ACT No. VI of 1901.<sup>1</sup>

THE ASSAM LABOUR AND EMIGRATION ACT, 1901.

[APPLIES TO THE UNITED PROVINCES.]

[9th March, 1901.]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

(2) It extends—

(a) to the Provinces of Bengal (including the Santhál Parganas), the North-Western Provinces, Oudh and Assam, the Central Provinces and the District of Ganjam in the Province of Madras; and

Short title,  
extent and  
commence-  
ment.

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<sup>1</sup> This Act is an amalgamation of the provisions of two Bills separately introduced in Council—see Report of the Select Committee referred to below. Those Bills were the “Assam Labour and Emigration Bill” and “The Assam Emigrants Health Bill.”

For Statements of Objects and Reasons, see Gazette of India, 1899, Pt. V, pp. 165 and 175, respectively; for Report of the Select Committee on both Bills which led to their amalgamation, see Gazette of India, 1901, Pt. V, p. 27; for Proceedings in Council, see *ibid*, 1899, Pt. VI, pp. 225 and 234, relating to both Bills, and for Proceedings in Council after their amalgamation, see *ibid*, 1901, Pt. VI, pp. 15 and 32.

(b) to such other parts of British India as the Local Government may, <sup>1</sup>[subject to the control] of the Governor General in Council, by notification in the local official Gazette direct

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub section (2), at once, and,

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub section, on such day as may be specified in that behalf in the notification

2 (1) In this Act, unless there is anything repugnant in the subject Definition or context,—

(a) “agent” means a garden sardar or other person engaging or assisting any native of India to emigrate under Chapter V

(b) “Assistant Inspector” means an Assistant Inspector of Labourers appointed under this Act

2\* \* \* \* \*

<sup>2</sup>[(cc) “Board” means the Assam Labour Board constituted under Chapter VI A ]

(d) “dependant” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a \* \* \*<sup>3</sup> local agent or garden sardar, or accompanying any emigrant with the consent of an agent

(e) “emigrate” denotes the departure of any native of India (not being a native of a labour district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force for the purpose of labouring for hire in a labour district otherwise than as a domestic servant

<sup>5</sup>[Explanation—If any such native of India, having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition ]

(f) “employer” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed

<sup>1</sup> e control were substituted for with the previous 1920 (38 of 1920)

<sup>2</sup> 7 (1) and schedule to the Assam Labour and Emigration Act, 1915) *infra*

<sup>3</sup> This clause was added by s 2 (a) of *ibid*

<sup>4</sup> The words contractor sub contractor, recruiter were repealed by s 7 (1) of *ibid*

<sup>5</sup> This Explanation was added by s 2 (b) of *ibid*

- (g) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:
- (h) "garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers:
- (i) "Inspector" means an Inspector of Labourers appointed under this Act:
- (j) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant:
- (k) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam:
- (l) "labourer" means any person bound by a labour-contract, and includes any person registered as such under \* \* \*<sup>1</sup> section 69:
- (m) "local agent" means a local agent licensed under this Act:
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act:
- <sup>2</sup>[(nn) "native district," in the case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State:]
- 3\*                      \*                      \*                      \*                      \*
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district:
- (q) "Registering-officer" means a Registering-officer appointed under this Act:
- (r) "sign" and "signature" include, in the case of persons unable to write, finger-impressions:
- 3\*                      \*                      \*                      \*                      \*
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act: and
- <sup>4</sup>[(u) "Supervisor" means a Supervisor appointed under this Act.]

IX of 1872.

(2) All words defined in the Indian Contract Act, 1872<sup>5</sup> and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

<sup>1</sup> The words and figure "section 34 or" were repealed by s. 7 (1) and schedule to the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

<sup>2</sup> This clause was added by s. 2 (c) of *ibid*.

<sup>3</sup> Clauses (o) and (s) were repealed by s. 7 (1) and schedule of *ibid*.

<sup>4</sup> This clause was added by s. 2 (d) of *ibid*.

<sup>5</sup> Genl. Acts, Vol. II.

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification<sup>1</sup> in the local official Gazette, prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Local Govern-  
ment may  
prohibit  
recruitment,  
etc., for  
omigration  
to any  
labour-  
district or  
part thereof  
either  
absolutely  
or otherwise  
than under  
certain  
provisions  
of Act

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

4. (1) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarcation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

Appointment  
of officers.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the <sup>2</sup>Indian Penal Code.

## CHAPTER II.

### LABOUR-CONTRACTS GENERALLY.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

Essentials of  
labour-  
contracts.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

<sup>1</sup> For notification prohibiting the recruitment of labourers in respect of certain districts see the U P Local Rules and Orders

<sup>2</sup> Genl. Acts, Vol. I.

(3) No labour-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman :

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman :  
and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman :

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract :

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

In absence of specific obligation underground labour not obligatory.

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour district.

72

9 Notwithstanding anything to the contrary in the Indian Contract Act, 1872, any person of the age of sixteen years or upwards may enter into a labour contract

Persons who may enter into labour contracts

Provided that no woman shall be capable of hindering herself by a labour contract if her husband or lawful guardian (if any) objects

10 (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour district, or compelled or induced to enter into a labour contract, by any coercion undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour contract of the labourer to be cancelled

Power of Local Government to cancel contract in case of wrongful recruitment

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect

11 Where the labour contract of a labourer is or has been cancelled under section 10 the Local Government may, in its discretion and on the application of the labourer concerned cancel the labour contract of any labourer being the wife, husband, father, mother, son or daughter of the labourer whose labour contract is or has been cancelled, who may have entered into a labour contract at the same place with the same employer or, in the case of a labour contract cancelled in the labour districts, may be employed on any estate belonging to the same owner or under charge of the same employer

Power to cancel contract of labourer related to labourer whose contract is cancelled

12 (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependents (if any) whose labour contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely —

Repatriation of labourers whose contracts are cancelled.

(a) \* \* \* \*

(b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden sardar concerned was granted or from the local agent of the employer, and,

(c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, \*\*\*1

(2) \* \* \* \* \*

(3) \* \* \* \* \*

Escort for  
repatriated  
labourer.

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

### CHAPTER III.

[RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.]

*Repealed by Act 8 of 1915.*

### CHAPTER IV.

RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

*Garden-sardars.*

Employer  
may grant  
certificate  
to garden-  
sardar.

56. (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

Form and  
particulars  
to be con-  
tained in  
such certi-  
cate.

57. (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

<sup>1</sup> The rest of clause (c) was repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

<sup>2</sup> Repealed by s. 7 (1) and schedule of *ibid*.



(2) Any employer granting a certificate to a garden sardar under section 56, sub section (1), may, before the certificate is accepted and signed as hereinafter provided specify therein the name of the local agent (if any) to whom the garden sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit

58 Every certificate granted to a garden sardar under section 56, sub section (1) shall be accepted and signed by the garden sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides

Certificate to be accepted and signed in presence of Inspector or Magistrate

59 The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge or is, by character or from any other cause unfitted to be a garden sardar, countersign and date the certificate

Inspector or Magistrate's counter signature of certificate

60 (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden sardar, the Inspector or Magistrate may, without requiring the appearance of the garden sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden sardar in renewal of any existing certificate

Proviso on to grant of fresh certificate

(2) Every fresh certificate granted under sub section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden sardar to whom it is granted is employed, and the garden sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence

61 No certificate granted to a garden sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides and also by the District Magistrate of the district in which the garden sardar is authorized by the certificate to enter into labour contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate

Certificate when to come into force and duration thereof

62 (1) Every garden sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour district

Accommodation to be provided by garden sardar

(2) The District or Subdivisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Subdivisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation  
of certificate  
in certain  
cases.

63. (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

#### *Local Agents.*

Licensing  
and duties  
of local  
agents.

64. <sup>1</sup>[(1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be Local Agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the <sup>2</sup>[Local Government] for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board, and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a license to such person.]

<sup>1</sup> These sub-sections were substituted for sub-section (1) by s. 3 of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

<sup>2</sup> The words "Local Government" were substituted for "Governor General in Council" by the Devolution Act, 1920 (38 of 1920).

<sup>1</sup>(4) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe

65. [Selecting agent] Rep by s 7 (1) and Schedule of Act 8 of 1915

66. Where any garden sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence

Prosecution of garden sardars by local agents

67. (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if <sup>2</sup>[his employer or the association or firm which has applied in respect of such local agent under section 64, sub section (2)] so requires, <sup>3</sup>[or if the District Magistrate is satisfied that the conduct of the local agent has been such as to render him unsuitable to hold a license]

Cancellation of licenses of local agents

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final

*Procedure to be followed by garden sardars*

68. Every garden sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour district as his dependants, before the Registering officer having jurisdiction within the local area specified in the certificate of the garden sardar or before such other Registering officer as the Local Government may appoint for that local area

Garden sardar and labourer to appear before Registering officer for registration

69. (1) The Registering officer shall thereupon inspect the certificate of the garden sardar, and if he finds that the certificate is in force, shall examine, with reference to the intended labour contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour contract to him

Examination and registration of persons engaged by garden sardar

(2) Where it appears that the person so brought before the Registering officer is competent to enter into the intended labour contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering officer shall register, in

<sup>1</sup> This sub section was renumbered by s 3 of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915) *infra*

<sup>2</sup> These words were substituted for the words "the employer" by s 4 of *ibid*

<sup>3</sup> These words were substituted for the remaining words and clauses (a) to (d) of s 67 (1) by *ibid*

a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

Medical  
examination.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical-man for medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

Fee to be  
paid for every  
labourer  
produced  
for registra-  
tion.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Labour-con-  
tract to be  
executed.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may

order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering officer may think fit

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

Procedure when employer requires medical examination previous to registration

74. Where the employer of a garden sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into such fee as the Local Government, by general or special order, may direct

Fee of medical officer when in Government service for examination under section 73

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour district

Garden sardar when to remove labourer to labour district.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour contract was entered into, to the labour district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered

Garden sardar to accompany labourers or send competent person with them

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers, and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts

No restriction on number of persons engaged by garden-sardar

a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

Medical  
examination.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

Fee to be  
paid for every  
labourer  
produced  
for registra-  
tion.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

Labour-con-  
tract to be  
executed.

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may

order the garden sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit

73. Where the employer of a garden sardar has, in the instructions specified in the certificate of the garden sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering officer shall register as a labourer any person appearing before him with the garden sardar until such medical certificate as aforesaid has been produced and shown to him

Procedure when employer requires medical examination previous to registration

74. Where the employer of a garden sardar has, in the instructions specified in the certificate of the garden sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct

Fee of medical officer when in Government service for examination under section 73

75 Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour contract under section 72, no garden sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour district

Garden sardar when to remove labourer to labour district.

76. (1) A garden sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour contract was entered into, to the labour district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered

Garden sardar to accompany labourers or send competent person with them

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden sardar or person so appointed by him shall accompany the labourers so proceeding

77. A garden sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers, and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour districts

No restriction on number of persons engaged by garden-sardar

labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be,—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained, and at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the same place as the labourer.

Payment of expenses of detention and return-journey of labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent Magistrate for cancellation of his labour-contract.

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the

Representative of employer may procure order from Superintendent cancelling the labour contract on payment of expense of return.



like effect on the labourer's copy of the labour contract, and attest the endorsement with his signature

88 (1) Where the Superintendent declares the labour contract of any labourer to be cancelled any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour contract at the same place with the same employer, may claim to have her or his labour contract cancelled at the same time

Cancellation of contracts of relatives.

(2) Where a claim is made under sub section (1), the Superintendent shall declare the labour contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer

(3) On the failure for the space of twenty four hours of the local agent or representative to comply with an order made under sub section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned, and may recover the same from the employer by whom the certificate of the garden sardar was granted, or from the local agent or representative who appears on behalf of the employer

89 When an order is made under sections 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate may order the garden sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary

Cost of escort for repatriated labourer

## CHAPTER V

### ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER <sup>1</sup>[CHAPTER IV]

90 [*Special provisions as to engagement of emigrants through garden sardars*] *Rep by s 6 of Act 8 of 1915*

<sup>1</sup> This word and figure were substituted for the words and figures Chapters III and IV by s 7 (2) (i) of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*

Power to  
Local Gov-  
ernment to  
relax certain  
provisions of  
Act.

<sup>1</sup>[91. \* \* \*<sup>2</sup> the Local Government may, by notification in the local official Gazette, declare that—

(a) \* \* \* \* \*

(b) in the case of garden-sardars holding certificates granted under Chapter IV \* \* \*<sup>2</sup> any of the requirements of that Chapter \* \* \*<sup>2</sup>.

may be dispensed with or relaxed on such conditions as may be prescribed in the notification.]

Saving of  
engagement  
of emigrants  
otherwise  
than under  
foregoing  
provisions of  
Act.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of <sup>4</sup>[Chapter IV] and of <sup>4</sup>[section 91].

Application  
of Act to  
persons  
engaged  
under this  
Chapter.

93. (1) The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely:—

(a) in CHAPTER VI (TRANSPORT):—

- (i) sections 94 and 95 (routes and transport by sea);
- (ii) sections 96 to 99 (passenger licenses);
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master);
- (iv) section 103 (medical officer);
- (v) section 104 (delay in departure);
- (vi) sections 107 to 110 (Magistrates' powers).
- (vii) section 112 (disinfection);
- (viii) section 113 (excess passengers);
- (ix) section 114 (breaches of Act and rules); and
- (x) section 116 (delegation of magisterial powers);

(b) in CHAPTER VII (LABOUR-DISTRICTS):—

- (i) section 122 (registers and returns);
- (ii) section 123 (inspection); and
- (iii) sections 159, 161 and 162 (repatriation);

<sup>1</sup> S. 91 was substituted by s. 2 of the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), *infra*.

<sup>2</sup> The words and figures "Notwithstanding anything contained in section 90" "or holding permits granted and countersigned under section 90" and "or of that section, as the case may be" were respectively repealed by s. 6 (1) of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

<sup>3</sup> Clause (a) was repealed by s. 7 (1) and schedule of *ibid*.

<sup>4</sup> These words and figures were substituted for the words and figures "Chapters III and VI" and "sections 90 and 91," respectively, by s. 6 ( ) and s. 7 (2) (i) of *ibid*.

## (c) in CHAPTER VIII (RULES) —

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants;

## (d) in CHAPTER IX (PENALTIES AND PROCEDURE):—

(i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river), and

(ii) sections 185 and 186 (offences by employers), and

## (e) in CHAPTER X (MISCELLANEOUS) —

(i) section 215 (recovery of sums due), and

(ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications, and repeal)

(2) Except as indicated in sub-section (1), nothing in <sup>1</sup>[Chapter II or IV] or in <sup>1</sup>[Chapters VI (except Chapter VI-A) to X] inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour contracts

## CHAPTER VI.

## TRANSPORT

*Routes, etc.*

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge

Routes to be followed and rules observed

*Transport by River*

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

Transport by sea to labour-districts.

<sup>1</sup> These words and figures were substituted for the words and figures " Chapters II to IV inclusive," and " Chapters VI to X," respectively, by s 7 (2) (ii) of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*

Vessels to carry more than twenty passengers to be ordinarily licensed.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

Grant of license.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

Fee for license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage:

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

Embarkation Agent may limit number to be received on board on any particular voyage.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

Master to make returns.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel as the Local Government may, by rule, prescribe.

102 Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe

Provision of clothing, medical and other officers, cooks, et

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf, and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition

Medical officer to be licensed

### *Departure of Passenger vessels and Procedure during Voyage*

104 Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure he may order the master of the vessel to proceed on his voyage at once

Embarkation Agent may order departure of vessel if delay occurs

105 (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way bills relating to all labourers on board in respect of whom way bills are required by this Act or by the rules made thereunder

Master to receive way bills from Embarkation Agent

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way bill

(3) The Embarkation Agent shall send a copy of every way bill granted under sub section (1) to the Magistrate of the labour district to which such labourers are proceeding

106 No master licensed under this Chapter shall cause or permit any labourer entered in any such way bill finally to leave his vessel at any place other than that named in the way bill as the destination of the labourer

Labourers not finally to leave vessel at a place other than that mentioned in way bill

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom

2. The right of laborers, to their destinations and  
to the return of day-hills by employers.

...incurred in pursuance of any rules in  
...recovered from the employers of the

118. The District or Subdivisional Magistrate may authorise any Magistrate, medical officer or officer of police to exercise the powers and authorities conferred on him by this Act and the duties imposed, on a Magistrate under section 117.

## CHAPTER VII.

### 1-111 LANCET BOARD.

1101. The Board, to be called the Assam  
Board of Local Agents, and of the recruit  
districts of natives of Ind

Section 2. The said Board shall be a body corporate, a  
body that shall have a common seal, and may by that name

... and hereinafter called the Board  
... the Chairman, who shall  
... to be appointed by the G  
... in the *Gazette of India*.

... by the following bodies, namely:

... Association, Calcutta, as repr

Association and of the Indian Tea Association

[illegible]

... Assoc. Branch, Indian Tea Association; a

... of the ... Valley Branch, Indian Tea Associ

...shall be made in such manner as may be determined by the Governor, subject to the approval of the Governor General.

... of every person so elected shall be public

...the said bodies prescribed by rules made under this Cl  
...of the same is called fails to elect representatives or to ele  
...the number of representatives to which it is entitled, the Governor  
...the said bodies persons to be members of the Boa  
...representatives of the said bodies.

THE AMERICAN EMIGRATION (A)

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board, and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely —

- (a) one of the Indian Tea Association, Calcutta,
- (b) one of the Indian Tea Association, London;
- (c) one of the Assam Branch, Indian Tea Association, and
- (d) one of the Surma Valley Branch, Indian Tea Association

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be

**116B.** (1) The Governor General in Council may fix the salary of <sup>Salary of</sup> the Chairman of the Board <sup>Chairman</sup>

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine

**116C.** (1) The Board may appoint so many persons as it thinks <sup>Appointment</sup> necessary to be Supervisors, with such powers and duties in respect of <sup>and functions</sup> the supervision of Local Agents and the other matters mentioned in section 116-A (1) as may be conferred and imposed on them by rules made under this Chapter <sup>of Supervisors</sup>

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter

(4) Every Supervisor shall be deemed to be a public servant within <sup>1890.</sup> the meaning of the Indian Penal Code <sup>1</sup>

**116D.** (1) Whenever the Board has reason to believe that the <sup>Endorsement</sup> conduct of a Local Agent has been such as to detract from his suitability <sup>of Local</sup> to hold a license it may call on him to produce his license, and after <sup>Agent's</sup> hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the Local Agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the Local Agent's license was granted <sup>licenses</sup>

(2) If the Local Agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

Cess.

**116E.** (1) Subject to the provisions of rules made under this Chapter, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

(2) Such cess shall be payable on every garden-sardar deputed by his employer to engage labourers and on every person recruited or engaged as a labourer or assisted to emigrate under Chapter IV or section 91:

Provided that the rates at which the cess is levied shall not exceed the following, namely:—

Five rupees a year on each garden-sardar so deputed, and

Five rupees on each person so recruited, engaged, or assisted to emigrate.

(3) On the failure of an employer for the space of one month after the receipt of a notice in such form and served in such manner as the Governor General in Council may, by rule under this Chapter, prescribe, to pay any sum due under sub-section (1), the same shall be recoverable from him.

Rules.

**116F.** (1) The Governor General in Council shall, after previous publication, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may, subject to the provisions of this Act, provide—

(a) for the powers to be exercised and the duties to be performed by the Board in carrying out the purposes for which it is constituted, and for the powers and duties of the Executive Committee and of the Chairman;

(b) for the period within which elections to the Board must be made; for the election of members of the Executive Committee; and for the appointment of temporary or acting members of the Board and of the Executive Committee during the absence of any member;

(c) for the times and places of meetings and procedure of the Board and of the Executive Committee;

(d) for regulating the rate of the cess, the method of levying and collecting the cess, the purposes to which the cess may be applied, and the accounts to be kept and the audit thereof; and



- (e) for the powers and duties of Supervisors appointed under section 116C ]

## CHAPTER VII

### PROVISIONS AS TO THE LABOUR DISTRICTS.

#### *Annual Rate payable by Employers*

117 (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub section (1), the same may be recovered from him

#### *Local Labour contracts*

118 (1) Any employer may enter into a labour contract for a term, not exceeding one year commencing from the date of the execution of the labour contract, with any native of India within the labour district in which the estate to which the labour contract refers is situate

(2) Where an employer has under sub section (1) executed a labour contract within a labour district, he shall, within one month from the date of the execution of the labour contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour contract to the labourer and the other to his employer

119 When, for the first time after the registration, under section 118, sub section (2), of a labour contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour contract, and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the

labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power of  
Inspector or  
Magistrate  
to require  
labourer who  
has executed  
such contract  
to appear  
before him.

**120.** The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Labour-con-  
tracts exe-  
cuted within  
labour-dis-  
trict before  
Inspector or  
Magistrate.

**121.** (1) Notwithstanding the provisions of section 118, an employer may enter into a labour contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose: and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

#### *Employers' Returns and Magistrates' Inspections.*

**122.** (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and by employers. of their dependants, in such form, and shall make to the Inspector,

Registers to  
be kept and  
returns made  
by employers.

within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

### *Regulation of Labour.*

124. (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

Schedule of daily tasks to be prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

125. (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

Limitations on tasks and payment of wages.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall,

if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

Provisions  
for revision  
of schedule  
by Inspector  
subject to  
appeal to  
Committee.

**126.** (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks.

(2) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

(a) the Inspector,

(b) some person to be nominated by the employer whose schedule is to be inquired into, and,

(c) if practicable, a medical officer.

(4) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

Committee  
to revise  
schedule

**127.** (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

Provision  
for weakly  
labourers.

**128.** (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half per diem, or diet on a scale to be approved by the Inspector.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

*Incapacity for Labour*

**129.** (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof

Inspector may suspend contract of any labourer temporarily unfitted for labour

(2) Every release granted under sub section (1) shall be endorsed by the Inspector on the labour contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence allowance from his employer as the Inspector may think sufficient

**130.** (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence allowance at the rate of one anna and a half, or if in hospital, sick diet on a scale to be approved by the Inspector

Labourer absent from sickness

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour contract unless the labourer refunds to the employer the sum of one anna and a half for each day so in excess

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour contract of the labourer, after such inquiry as he may think necessary the number of days so to be added to the term thereof

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned

**131** (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate the labour contract of the labourer shall wholly determine

Discharge of labourer permanently incapacitated

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

*Accommodation for Labourers.*

House-accommodation, water-supply and sanitary arrangements for labourers.

**132.** Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

Supply of food-grain for labourers.

**133.** (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

Provisions for rationing.

**134.** (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,—

(a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;

(b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit

Provision for hospital accommodation and medical attendance.

136 (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house accommodation, water supply, sanitary arrangements, food grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133

Enquiry whether employer has failed to provide accommodation, etc., as required by the rules

(2) At the instance of any Inspector or Assistant Inspector, a similar inquiry may be made by a Magistrate

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted, and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal Procedure, 1898

#### *Localities unfit for the Residence of Labourers*

137 (1) Where in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter

Report by Inspector and inquiry by Committee

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate,
- (b) the Inspector,
- (c) the civil medical officer of the district, and
- (d) one or more employers of labourers

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

**138.** Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

(a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

(b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

**139.** Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

**140.** (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

(2) Where a finding has been recorded under sub-section (1), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been can-

Inquiry by  
Committee  
by order of  
Local  
Government.

Proceedings  
of Committee.

Finding of  
Committee  
and conse-  
quences.



celled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect

141 The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140

Power for Local Government to pass orders on proceedings of Committees

142 Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years as the case may be, than seven per cent, the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely —

Excessive mortality on estates

(a) the cause or causes of the mortality

(b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof or of the employer in charge of the estate or portion, causing or contributing to the mortality,

(c) the fitness or otherwise of the estate or portion for the residence of labourers

Provided that when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate may direct an inquiry under this section limited to that particular class of labourers

143 The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report

Medical officer to report

Power for Local Government to declare estate unfit for residence.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

#### *Complaints made by Labourers.*

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

146. Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate:

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

Inspector or Magistrate how to proceed in case of complaint.

147. (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or com-

mitted any such breach as is mentioned in section 146 in respect of, a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill usage or breach has been committed

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness

148. (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious he shall dismiss the complaint, and in that event shall endorse on the employer's copy of the complainant's labour contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour

Untrue or  
frivolous  
complaints

(2) Every endorsement made under sub section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed

149 (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour contract

Award of  
compensation  
to employer

(2) The complainant shall be bound to pay the amount awarded under sub section (1), and, in default of payment, his labour contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same

150. (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law

Complaints  
disclosing  
grounds for  
further  
proceedings.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his wit-

nesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

**151.** (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

**152.** (1) Where it is proved to the satisfaction of a Magistrate—

- (a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the <sup>1</sup>Code of Criminal Procedure, 1898, triable exclusively by the Court of Session; or
- (b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate; or
- (c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or
- (d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

Recovery of arrears of wages and compensation.

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

153 (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled

(2) No labour contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled

154 Where the labour contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may in his discretion and on the application of the labourer concerned cancel the labour contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour contract is or has been so cancelled or has so determined

### *Determination of Labour contracts*

155 (1) Whenever a labour contract determines the employer shall endorse on the labourer's copy of the contract the fact of determination or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect and where the employer refuses or neglects to do so the Inspector may on application by the labourer make such endorsement or give such certificate as aforesaid

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof

156 (1) Where a labourer is able and desirous to redeem the unexpired term of his labour contract or the labour contract of any member of his family by payment of a sum equivalent to the value of the unexpired term the labourer may require his employer to take him, or allow him to go before the Inspector within the local limits of whose jurisdiction he is employed, and, on his depositing such sum as aforesaid with the Inspector the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract

(2) If no sufficient cause is shown as aforesaid the Inspector shall require the labourer's copy of the contract to be produced and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the

like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

Power to  
equalize  
terms of con-  
tract in case  
of husband  
and wife.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

#### *Repatriation of Labourers and Others.*

Repatriation  
of labourer  
whose  
labour-con-  
tract has  
determined  
under section  
131.

158. (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.

159. Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour district for the purpose of labouring for hire in any estate situate therein, or, being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract

(2) Any expenditure incurred under sub section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour district or estate to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him if he so desires, together with any other persons dependent on him, back to his native district

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be re-

covered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

Arrange-  
ments may  
be made for  
escorting  
persons  
ordered to be  
repatriated.

**162.** (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

## CHAPTER VIII.

### RULES.

General  
power for the  
Local Gov-  
ernment to  
make rules.

**163.** (1) In addition to the powers hereinbefore conferred, the Local Government may make rules to carry out any of the purposes and objects of this Act in the province.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define and regulate the powers and duties of the several officers appointed by it under this Act;
- (b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any \* \*<sup>2</sup> local agents within the Province and the form in which they shall be respectively so made;
- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province;
- (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him

<sup>1</sup> For rules made by the Local Government, see U. P. Local Rules and Orders.

<sup>2</sup> The words "contractors or" were repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.



in any district in the Province for registration as a labourer or dependant,

- (f) \* \* \* \* \*
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province,
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour district, provide for the ventilation, cleanliness and water supply of such vessels in respect of which licenses are granted hereunder by any such officer, and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels,
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to each labourer and dependant during the journey through the same, prescribe the number of officers, cooks and other servants to be carried on board such vessels, and provide generally for the accommodation of labourers and their dependants on such vessels,
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province,
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour districts,
- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour districts through the Province
- (m) require depôts and rest-houses to be provided by and at the cost of employers <sup>\*1</sup> of agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses,
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and

<sup>1</sup> Clause (f) and the word contractors in clauses (m) to (r) were repealed by s 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act 1915 (3 of 1915) *infra*.

- at the cost of employers, <sup>\*1</sup> or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, <sup>\*1</sup> or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;
- (o) regulate the food to be supplied by and at the cost of employers, <sup>\*1</sup> or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;
- (p) regulate the water-supply to be maintained by and at the cost of employers, <sup>\*1</sup> or agents for the use of labourers, emigrants under Chapter V and dependants;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, <sup>\*1</sup> or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;
- (r) regulate the arrangements to be made by and at the cost of employers, <sup>\*1</sup> or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and
- (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, <sup>\*1</sup>, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, <sup>\*1</sup> or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

<sup>1</sup> The word "contractors" in clauses (m) to (r) and the word "contractor" in sub-section (3) were repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX

### PENALTIES AND PROCEDURE

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Recruitment, etc., in contravention of Act or notification.

165. [Wilful misdescription by recruiter.] Rep by s 7 (1) and Sch. of Act 8 of 1915.

166. [Recruiter removing, etc, unregistered person] Rep by s 7 (1) and Sch. of Act 8 of 1915.

167. [Recruiter not supplying proper food, etc.] Rep by s 7 (1) and Sch. of Act 8 of 1915

168 [Labourer refusing without reasonable cause to execute contract at depot] Rep by s. 7 (1) and Sch. of Act 8 of 1915

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden sardar in procuring his registration, whichever amount is least.

Labourer refusing to execute contract with garden-sardar

(2) Every fine levied under sub section (1) shall be paid to the garden sardar by whom such expense as aforesaid was incurred

170 Whoever, being a garden-sardar holding a certificate under Chapter IV,—

Garden sardar failing to report him self, etc

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate, or

at the cost of employers, \*<sup>1</sup> or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, \*<sup>1</sup> or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

- (o) regulate the food to be supplied by and at the cost of employers, \*<sup>1</sup> or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;
- (p) regulate the water-supply to be maintained by and at the cost of employers, \*<sup>1</sup> or agents for the use of labourers, emigrants under Chapter V and dependants;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, \*<sup>1</sup> or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;
- (r) regulate the arrangements to be made by and at the cost of employers, \*<sup>1</sup> or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and
- (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, \*<sup>1</sup>, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, \*<sup>1</sup> or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

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<sup>1</sup> The word "contractors" in clauses (m) to (r) and the word "contractor" in sub-section (3) were repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX

### PENALTIES AND PROCEDURE

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

165. [*Wilful misdescription by recruiter*] Rep by s 7 (1) and Sch of Act 8 of 1915.

166. [*Recruiter removing, etc., unregistered person*] Rep by s 7 (1) and Sch of Act 8 of 1915

167. [*Recruiter not supplying proper food, etc*] Rep by s 7 (1) and Sch of Act 8 of 1915

168. [*Labourer refusing without reasonable cause to execute contract at depôt*] Rep by s 7 (1) and Sch of Act 8 of 1915

169 (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub section (1) shall be paid to the garden sardar by whom such expense as aforesaid was incurred

170 Whoever, being a garden sardar holding a certificate under Chapter IV,—

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

at the cost of employers, \*<sup>1</sup> or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, \*<sup>1</sup> or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

(o) regulate the food to be supplied by and at the cost of employers, \*<sup>1</sup> or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;

(p) regulate the water-supply to be maintained by and at the cost of employers, \*<sup>1</sup> or agents for the use of labourers, emigrants under Chapter V and dependants;

(q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, \*<sup>1</sup> or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;

(r) regulate the arrangements to be made by and at the cost of employers, \*<sup>1</sup> or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;

(s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and

(t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, \*<sup>1</sup>, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, \*<sup>1</sup> or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

<sup>1</sup> The word "contractors" in clauses (m) to (r) and the word "contractor" in sub-section (3) were repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX.

### PENALTIES AND PROCEDURE

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

165. [*Wilful misdescription by recruiter*] Rep by s 7 (1) and Sch of Act 8 of 1915.

166. [*Recruiter removing, etc., unregistered person*] Rep by s 7 (1) and Sch of Act 8 of 1915.

167. [*Recruiter not supplying proper food, etc.*] Rep by s 7 (1) and Sch of Act 8 of 1915

168. [*Labourer refusing without reasonable cause to execute contract at dépôt*] Rep by s 7 (1) and Sch of Act 8 of 1915

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub section (1) shall be paid to the garden sardar by whom such expense as aforesaid was incurred

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate, or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

Recruitment,  
etc., in con-  
travention of  
Act or noti-  
fication.

Labourer re-  
fusing to  
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tract with  
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Garden-sar-  
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at the cost of employers, \*<sup>1</sup> or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, \*<sup>1</sup> or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

(o) regulate the food to be supplied by and at the cost of employers, \*<sup>1</sup> or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;

(p) regulate the water-supply to be maintained by and at the cost of employers, \*<sup>1</sup> or agents for the use of labourers, emigrants under Chapter V and dependants;

(q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, \*<sup>1</sup> or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;

(r) regulate the arrangements to be made by and at the cost of employers, \*<sup>1</sup> or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;

(s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and

(t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, \*<sup>1</sup>, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, \*<sup>1</sup> or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

<sup>1</sup> The word "contractors" in clauses (m) to (r) and the word "contractor" in sub-section (3) were repealed by s. 7 (1) and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.



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- (c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-sardar, etc., abandoning labourers, etc.

**171.** Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under <sup>1</sup> \* \* \* section 76 to accompany labourers to a labour-district,—

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or
- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making overlabourers to unauthorised persons, etc.

<sup>2</sup>[**172.** (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to the Garden-sardar or Local Agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV as modified by any notification issued under section 91; or
- (b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers; or

<sup>1</sup> The words and figure "section 55 or" were repealed by s. 7 and schedule of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

<sup>2</sup> This section was substituted by s. 7 (2) (iii) of *ibid*.

- (c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.]

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

Garden-sardar failing to comply with instructions endorsed on way-bill.

174. Whoever,—

(a) \* \* \*

(b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section;

Unlawful engagement of emigrants by garden-sardar.

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. [*Local agent or selecting agent working with contractor.*] *Rep. by s. 7 (1) and Sch. of Act 8 of 1915.*

176. (1) Whoever,—

(a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India; or,

Master receiving native passengers on board in contravention of Act.

(b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district;

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

<sup>1</sup> This clause was repealed by s. 6 of the Assam Labour and Emigration (Amendment) Act, 1915 (8 of 1915), *infra*.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

**177.** Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

**178.** Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

**179.** Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

**180.** Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

**181.** Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

**182.** Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

**183.** Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

**184.** Whoever, having executed a labour-contract,—

- (a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,
- (b) without reasonable cause, refuses or neglects, to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

Fraudulent alteration of vessel after grant of license.

Master not complying with section 102.

Master not complying with order under section 104.

Master permitting labourer to leave vessel contrary to section 106.

Master wilfully omitting to stop vessel at certain place.

Person disobeying Magistrate's order as to communication between vessel and land.

Master or medical officer disobeying or neglecting to enforce rules.

Labourer deserting, etc., after registration.

shall be punishable with imprisonment for a term which may extend to one month

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees

Employer refusing or omitting to keep registers, etc

186. Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123 shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees

Employer or other person compelling labourer to perform labour, for which he is unfit

188. Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees

Persons buying labourer's rations

189. (1) Whoever, being an employer, wilfully omits to provide house accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees, and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order

Employer omitting to provide house accommodation, etc

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues

(3) If the employer fails to pay the fine imposed under sub section (2), the person on whose account he has been acting shall be liable to pay the same

190. Whoever being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues

Employer neglecting to provide hospital accommodation

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent alteration of vessel after grant of license.

**177.** Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not complying with section 102.

**178.** Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section 104.

**179.** Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section 106.

**180.** Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master wilfully omitting to stop vessel at certain places.

**181.** Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

**182.** Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

**183.** Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Labourer deserting, etc., after registration.

**184.** Whoever, having executed a labour-contract,—

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

(b) without reasonable cause, refuses or neglects, to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month

**185.** Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees

Employer refusing or omitting to keep registers, etc.

**186.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123 shall for every such offence be punishable with fine which may extend to two hundred rupees

Employer or other person obstructing inspection under section 123

**187.** Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees

Employer or other person compelling labourer to perform labour for which he is unfit

**188** Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees

Persons buying labourer's rations

**189.** (1) Whoever being an employer, wilfully omits to provide house accommodation, water supply sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees, and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order

Employer omitting to provide house accommodation, etc

(2) If the employer wilfully omits to comply with the order within the time so fixed he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues

(3) If the employer fails to pay the fine imposed under sub section (2), the person on whose account he has been acting shall be liable to pay the same

**190** Whoever being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues

Employer neglecting to provide hospital accommodation.

aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure on  
complaint of  
desertion

**197.** Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint.

Punishment  
for desertion.

**198.** (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensa-  
tion for  
wrongful  
arrest.

**199.** (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer so arrested.



**200.** Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation, or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect

Cancellation of contract by desertion

**201** Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees

Penalty for drunkenness or neglect of sanitary regulations

**202 (1)** The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour contract

Portion of sentence may be cancelled on application of employer

(2) On an application being made under sub section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer, and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour contract a certificate of the cancellation, or if that copy is not forthcoming shall give him a written certificate of the cancellation

(3) Nothing in this section shall be deemed to affect the provisions of section 200

**203** Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer, and shall, before the order is issued deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense

Expense of forwarding labourer to be paid by employer

**204 (1)** On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act the Magistrate shall subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him, and no conviction under this Act or imprisonment thereon shall, save as aforesaid operate as a release to any labourer from the terms of his labour contract

Conviction not to operate as a release

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction

(3) Any expenditure incurred under sub section (2) may be recovered from the employer of the labourer concerned

Endorsement  
on contract  
of imprison-  
ment for  
offence  
against Act.

**205.** (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

Endorsement  
on contract  
of period of  
any other  
imprison-  
ment.

**206.** Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods  
endorsed  
to be added  
to term of  
contract.

**207.** The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person  
enticing  
away,  
harbouring  
or employing  
labourer  
under labour-  
contract.

**208.** (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub section (1)

209. Whoever, being bound under section 118, sub-section (2), to forward any labour contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees

Failure to forward contract under section 118 or to cause labourer to appear under section 120

210. Whoever, being bound by section 146 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees

Employer or other person neglecting to send labourer before Magistrate as provided by section 146

211. Whoever, being an employer,—

Employer refusing to endorse labour contract etc

(a) refuses or wilfully neglects to endorse the labourer's copy of his labour contract as required by section 155, or

(b) detains a labourer after the determination of his labour contract, or

(c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof,

shall be punishable with fine which may extend to two hundred rupees

212. Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term

213. Whoever abets, within the meaning of the Indian Penal Code,<sup>1</sup> any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence

Abetment

214. Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force

Place of trial for offences

## CHAPTER X.

## MISCELLANEOUS.

Recovery of  
sums due  
under Act.

**215.** Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

Wages due  
under labour-  
contract a  
charge upon  
estate.

**216.** All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Owner of  
estate for  
time being  
has all  
rights and  
remedies in  
respect of  
labour-  
contracts  
charged on  
it.

**217. (1)** Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

**(2)** No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application  
of proceeds  
of fines, fees  
and rates.

<sup>1</sup>**[218.]** The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.]

Duty of  
Assistant  
Inspector.

**219.** Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

<sup>1</sup> S. 218 was substituted by s. 3 of the Assam Labour and Emigration (Amendment) Act, 1908 (11 of 1908), *infra*.

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires

Powers of officers under this Act to be exercisable from time to time

221. The Chief Commissioner of Assam may, <sup>1</sup>[subject to the control] of the Governor General in Council, by notification in the local official Gazette, declare that any labour district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act, and from the day so fixed such labour district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be

Power to exempt labour district from Act

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication

Notifications not to affect prior acts etc

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof

## THE FIRST SCHEDULE

### FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER

(See section 5)

This contract, made under the Assam Labour and Emigration Act, 1901, between A B (hereinafter called the labourer) of the one part and \*<sup>2</sup>[C D (representative, local agent or garden sardar) on behalf of] E F (hereinafter called the employer) on the other part, witnesseth that the said \*<sup>3</sup>[representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour† on the  $\frac{x \text{ estate}}{y \text{ estates}}$  ‡ of his said employer in the labour-district of \_\_\_\_\_ for the term of \_\_\_\_\_ years from the date of the execution of this contract, he the said employer, will, from the date on which the said labourer commences to labour on the said  $\frac{x \text{ estate}}{y \text{ estates}}$ , pay or cause to be paid to the said labourer monthly wages at the rate of Rs § \_\_\_\_\_ for a completed daily task regulated in accord-

\* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden sardar

† State nature of labour, if the labourer is to be required to work under the ground

‡ As the case may be.

§ State rates for various periods of contract

<sup>1</sup> The words "subject to the control" were substituted for "with the previous sanction" by the Devolution Act, 1920 (38 of 1920)



*Endorsement to be filled up by officer before whom the contract is executed.*

I hereby certify that, before the said *A B* signed this contract, I personally explained it to him.

Dated at \_\_\_\_\_ } Signed \_\_\_\_\_  
 This day of \_\_\_\_\_ } Superintendent or Registering-officer or  
 Inspector or Magistrate.

*Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.*

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at \_\_\_\_\_ }  
 This day of \_\_\_\_\_ } Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section \_\_\_\_\_ of Act VI of 1901.

Dated at \_\_\_\_\_ }  
 This day of \_\_\_\_\_ } Signature of Inspector or Magistrate.

## THE SECOND SCHEDULE.

### ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act I of 1882.
1893	VII	The Inland Emigration Act, 1893.	The whole.
1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relates to Act I of 1882 and Bengal Act I of 1889.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>			
1889	I	The Inland Emigrants' Health Act, 1889.	The whole.

ACT No. VII of 1902.<sup>1</sup>

## UNITED PROVINCES (DESIGNATION) ACT, 1902.

[APPLIES TO THE UNITED PROVINCES.]

[26th March, 1902.]

An Act to recognise and give effect to a change in the constitution and designation of the territories formerly known as the North-Western Provinces and Oudh.

WHEREAS the territories formerly administered by the Chief Commissioner of Oudh have been united under one Local Government with those administered by the "Lieutenant-Governor of the North-Western Provinces;

And whereas it has been resolved that the territories so united in one "Lieutenant-Governorship shall be known as "the United Provinces of Agra and Oudh;"

And whereas it is expedient to recognise and give effect to the change so made in the constitution and designation of the said territories;

It is hereby enacted as follows:

1. This Act may be called the United Provinces (Designation) Act, 1902.

2. In every enactment heretofore passed and now in force, and in every appointment, order, scheme, rule, by-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh shall be construed as referring to the United Provinces of Agra and Oudh, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of Agra and Oudh, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1902, Pt. V, p. 65; for Proceedings in Council, see *ibid*, Pt. VI, pp. 51 and 54.

<sup>2</sup> Now the Governor of the United Provinces of Agra and Oudh.

Short title.

References in existing enactments to North-Western Provinces and Oudh.



ACT No XI of 1908<sup>1</sup>THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT  
1908.

[APPLIES TO THE UNITED PROVINCES.]

[11th September, 1908]

An Act to amend the Assam Labour and Emigration Act 1901

WHEREAS it is expedient to amend the<sup>2</sup> Assam Labour and Emigration Act, 1901, It is hereby enacted as follows —1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1908 Short title.

<sup>2</sup>2. For section 91 of the<sup>2</sup> Assam Labour and Emigration Act, 1901, the following shall be substituted, namely — Substitution of new section for section 91. Act VI, 1901.

[*Supra*, p 374]

3. For section 218 of the said Act, the following shall be substituted, namely — Substitution of new section for section 218 Act VI of 1901.

[*Supra*, p 412]

ACT No I of 1911<sup>4</sup>

## THE OPIUM (AMENDMENT) ACT, 1911

[APPLIES TO THE UNITED PROVINCES]

[5th January, 1911]

An Act further to amend the Opium Act, 1857.

<sup>57</sup> WHEREAS it is expedient further to amend the<sup>2</sup> Opium Act, 1857; It is hereby enacted as follows —

1. This Act may be called the Opium (Amendment) Act, 1911

2 In section 3 of the<sup>2</sup> Opium Act, 1857, for the words "in Calcutta" the words "of the United Provinces of Agra and Oudh" shall be substituted Amendment of Act XIII of 1857, section 3.

3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh Continuance of orders issued by Board of Revenue, Calcutta.

<sup>1</sup> For Statement of Objects and Reasons see Gazette of India 1908, Pt V, p 283, and for Proceedings in Council, see *ibid*, 1908, Pt VI, pp 142 and 150

<sup>2</sup> *Supra*<sup>3</sup> 8 of 1915, *infra*, which has amended

Gazette of India, 1910, Pt V, p 150, and p 35

Ratification  
of orders  
already  
issued by  
Board of  
Revenue,  
United Pro-  
vinces.

4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed.

ACT No. XVI OF 1911.<sup>1</sup>

THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT) ACT, 1911.

[APPLIES TO THE PROVINCE OF AGRA.]

[18th September, 1911.]

An Act further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

WHEREAS it is expedient further to amend the <sup>2</sup>Bengal, North-Western Provinces and Assam Civil Courts Act, 1887; It is hereby enacted as XII of 1887. follows:—

Short title.

1. This Act may be called the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.

Amendment  
of section 1  
(1), Act XII,  
1887.

2. In sub-section (1) of section 1 of the <sup>2</sup>Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, for the words "North-Western Provinces" the word "Agra" shall be substituted. XII of 1887.

Amendment  
of section 8  
(1), Act XII,  
1887.

3. In sub-section (1) of section 8 of the said Act, the words "and with the previous sanction of the Governor General in Council" are hereby repealed.

Amendment  
of section 25,  
Act XII,  
1887.

4. In section 25 of the said Act, for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

ACT No. VIII OF 1915.<sup>3</sup>

THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1915.

[APPLIES TO THE UNITED PROVINCES.]

[25th March, 1915.]

An Act further to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient further to amend the <sup>2</sup>Assam Labour and Emigration Act, 1901; It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1911, Pt. V, p. 113; and for Proceedings in Council, see *ibid*, 1911, Pt. VI, pp. 634 and 654.

<sup>2</sup> *Supra*.

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1915, Pt. V, p. 30; and for Proceedings in Council, see *ibid*, 1915, Pt. VI, pp. 185 and 340.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf

2. In section 2 (1) of the <sup>2</sup>Assam Labour and Emigration Act, 1901 (hereinafter called the said Act), the following amendments shall be made, namely —

Amendment of section 2 (1), Act VI, 1901

(a) After clause (c) the following clause shall be added, namely —

[*Supra*, p 359.]

(b) To clause (e) the following *Explanation* shall be added, namely —

[*Supra*, p 359]

(c) After clause (n) the following clause shall be added, namely —

[*Supra*, p 360]

(d) After clause (t) the following shall be added, namely —

[*Supra*, p 360]

3. For sub section (1) of section 64 of the said Act, the following sub-sections shall be substituted, namely —

Amendment of section 64, Act VI, 1901

[*Supra*, p 366]

and the existing sub section (2) of the same section shall be renumbered (4)

4. In section 67 (1) of the said Act there shall be substituted for the words "the employer," the words "his employer or the association or firm which has applied in respect of such local agent under section 64, sub-section (2)" and for the words from "or if" to the end of the sub section, the following words, namely —

Amendment of section 67, Act VI, 1901

[*Supra*, p 367]

5. After section 116 of the said Act the following provisions shall be inserted, namely —

Insertion of new Chapter VI A in Act VI, 1901

[*Supra*, pp 380 to 383]

6. (1) The following portions of the said Act are hereby repealed, namely, section 90, in section 91, the words "notwithstanding anything contained in section 90," and in clause (b) thereof, the words "or holding permits granted and countersigned under section 90," and the words "or of that section, as the case may be," and clause (a) of section 174

Repeal of section 90, Act VI, 1901  
Consequential repeals and amendments.

(2) In section 92 of the said Act, for the words and figures "sections 90 and 91" there shall be substituted the word and figures "section 91"

7. (1) The portions of the said Act specified in the Schedule to this Act are hereby repealed to the extent mentioned in the second column of the Schedule

Repeal of Chapter III, Act VI, 1901  
Consequential repeals and amendments.

<sup>2</sup> Section 7 came into force on 1st July 1915, see Gazette of India, 1915, Pt I, p 790

<sup>3</sup> *Supra*.

(2) The following amendments shall be made in the said Act, namely:—

- (i) In the heading to Chapter V, and in section 92 there shall be substituted for the words and figures "Chapters III and IV" the word and figures "Chapter IV."
- (ii) In section 93 (2) there shall be substituted for the words and figures "Chapters II to IV inclusive," the words and figures "Chapter II or IV" and for the words and figures "Chapters VI to X" the words and figures "Chapters VI (except Chapter VI-A) to X."
- (iii) For section 172 of the said Act, the following section shall be substituted, namely:—

[*Supra*, p. 402.]

### THE SCHEDULE.

#### PORTIONS OF ACT VI OF 1901 REPEALED.

[*See section 7 (1).*]

1	2
Chapter or Section.	Extent of repeal.
S. 2 (1)	Clause (c). In clause (d) the words "contractor, sub-contractor, recruiter." In clause (l) the words and figures "section 34 or" Clauses (o) and (s).
S. 12 (1)	Clause (a). In clause (c) the words from "or if the labourer" to the end of the clause.
S. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III	The whole.
S. 65	The whole.
S. 91	Clause (a).
S. 163 (2)	In clause (b) the words "contractors or" Clause (f). In clauses (m) to (r) the word "contractors," wherever it occurs

THE SCHEDULE—*contd*

## PORTIONS OF ACT VI OF 1901 REPEALED

[See section 7 (1) ]

1	2
Chapter or Section	Extent of repeal
S 163 (3)	The word 'contractor' in both places where it occurs
Ss 165 to 168	The whole
S 171	The words and figures section 5, or
1*	* * * * *
S 175	The whole

ACT No XVI OF 1915<sup>2</sup>

## THE BENARES HINDU UNIVERSITY ACT, 1915

[1st October, 1915]

## An Act to establish and incorporate a teaching and residential Hindu University at Benares

WHEREAS it is expedient to establish and incorporate a teaching and residential Hindu University at Benares, and to dissolve the Hindu University Society, a Society registered under the Societies Registration Act, 1860,<sup>3</sup> and to transfer to, and vest in, the said University all property and rights now vested in the said Society, It is hereby enacted as follows —

1. (1) This Act may be called the Benares Hindu University Act, 1915 Short title and commencement.
- (2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct

<sup>1</sup> The entry relating to "S 174, clause (a)" was repealed by a 3 and second schedule of the Repealing and Amending Act, 1915 (11 of 1915) Genl. Acts, Vol VIII

<sup>2</sup> For Statement of Objects and Reasons see Gazette of India, 1915, Pt V, p 41, for Report of Select Committee, see *ibid*, 1915 Pt V, p 61, and for Proceedings in Council, see *ibid*, 1915, Pt VI, pp 291, 441 and 503

\* Genl. Acts, Vol I

<sup>3</sup> The 1st April, 1916, see Gazette of India, 1916, Pt I, p 352

## Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "College" means any college or institution maintained or admitted to privileges by the University;
- (b) "Council" means the University Council;
- (c) "Court" means the University Court;
- (d) "Faculty" means a Faculty of the University;
- (e) "Regulations" means the Regulations of the University for the time being in force;
- (f) "Senate" means the Senate of the University;
- (g) "Statutes" means the Statutes of the University for the time being in force; and
- (h) "University" means the Benares Hindu University.

## Incorporation.

3. (1) The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons specified in this behalf by a notification of the Governor General in Council in the Gazette of India, and the persons indicated in Schedule I as members of the Court and the Senate, and all persons who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, shall be constituted a body corporate by the name of the Benares Hindu University.

(2) The University shall have perpetual succession and a common Seal, and shall sue, and be sued, by the name first aforesaid.

(3) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, literary, artistic and scientific, as well as agricultural, technical, commercial and professional, of furthering the prosecution of original research, and of giving instruction in Hindu theology and religion, and of promoting the study of literature, art, philosophy, history, medicine and science, and of imparting physical and moral training.

## University open to all classes, castes and creeds save as regards religious instruction.

4. (1) The University shall, subject to the Regulations, be open to persons of all classes, castes and creeds, but provision shall be made for religious instruction and examination in Hindu religion only.

(2) The Court shall have power to make Statutes providing that instruction in Hindu religion shall be compulsory in the case of Hindu students, and shall also have power to make special arrangements for the religious instruction of Jain or Sikh students from funds provided for this purpose.

## Lord Rector, Patrons and Vice-Patrons.

5. The Governor General of India for the time being shall be the Lord Rector of the University; and such persons, as may be specified in the Statutes, shall be the Patrons and Vice-Patrons thereof.

## Visitor.

6. (1) The Lieutenant-Governor for the time being of the United Provinces of Agra and Oudh shall be the Visitor of the University.

(2) The Visitor shall have the right of inspecting the University and its Colleges generally, and for the purpose of seeing that the proceedings of the University are in conformity with this Act and the Statutes and Regulations. The Visitor may, by order in writing, annul any such proceeding which is not in conformity with this Act and the Statutes and Regulations.

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made and if any cause is shown within a reasonable time, shall consider the same.

7 The following shall be the authorities and officers of the University —

Authorities  
and officers of  
the Univer  
sity

- I —The Chancellor,
- II —The Pro Chancellor,
- III —The Vice Chancellor,
- IV —The Pro Vice Chancellor,
- V —The Court,
- VI —The Council,
- VII —The Senate,
- VIII —The Syndicate,
- IX —The Faculties and their Deans,
- X —The Registrar,
- XI —The Treasurer, and
- XII —Such other authorities and officers as may be provided for by the Statutes

8 Subject to the provisions of this Act the powers and duties of the officers of the University the term for which they shall hold office and the filling up of casual vacancies in such offices shall be provided for by the Statutes

Powers and  
duties of  
officers term  
of office and  
filling of  
casual vacan-  
cies.  
The Court.

9 (1) The Court shall be the supreme governing body of the University in administrative matters, and shall have power to review the acts of the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations) and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.

(2) Save in the case of the first Court, no person not being a Hindu shall become or be appointed, a member of the Court.

10 (1) The Council shall be the executive body of the Court, and shall in addition to *ex officio* members, consist of not more than thirty elected members.

The Council

Provided that five members, other than *ex officio* members, shall be members of the Senate elected by the Senate.

(2) The Council shall exercise such powers and perform such duties as may be vested in it by the Statutes.

The Senate.

11. (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations, shall have entire charge of the organization of instruction in the University and the Colleges, the courses of study and the examination and discipline of students and the conferment of ordinary and honorary degrees.\*

(2) The Senate shall ordinarily consist of not less than fifty members.

The Syndicate.

12. (1) The Syndicate shall be the executive body of the Senate, and shall consist of seventeen members:

Provided that ten at least of the members of the Syndicate, other than *ex-officio* members, shall be University Professors or Principals or Professors of Colleges.

(2) The Syndicate shall exercise such powers and perform such duties as may be vested in it by the Statutes.

Audit of accounts.

13. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by auditors appointed by the Court:

Provided that no person shall be appointed an auditor in the exercise of this power, unless he is qualified in accordance with the provisions of the <sup>1</sup>Indian Companies Act, 1913, to audit accounts of companies under <sup>VII</sup> of 1913, that Act.

(2) The accounts, when audited, shall be published in the Gazette of India, and a copy of the accounts, together with the auditor's report, shall be submitted to the Visitor.

Permanent reserve to cover recurring charges.

14. The University shall invest, and keep invested, in securities in which trust funds may be invested, in accordance with the provisions of the law relating to trusts in British India, a sum of fifty lakhs of rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of scholarships, prizes and rewards:

Provided that—

(1) any Government securities, as defined by the <sup>2</sup>Indian Securities <sup>XIII</sup> of 1886, Act, 1886, which may be held by the University shall, for the purpose of this section, be reckoned at their face-value; and

(2) the aforesaid sum of fifty lakhs shall be reduced by such sum as, at the commencement of this Act, the Governor General in Council shall, by order in writing, declare to be the total capitalised value, for the purposes of this section,—

(a) of all permanent recurring grants of money which have been made to the University by any Indian Prince or Chief; and

<sup>1</sup> Genl. Acts, Vol. VII.

<sup>2</sup> Genl. Acts, Vol. III.



- (b) of the total income accruing from immoveable property which has been transferred to the University

15. (1) The Central Hindu College, Benares, shall, from such date<sup>1</sup> as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, be deemed to be a College maintained by the University, and the University may found and maintain other Colleges and institutions in Benares for the purposes of carrying out instruction and research

Maintenance and admission to privileges of colleges.

(2) With the approval of the Senate and the sanction of the Visitor, and subject to the Statutes and Regulations, the University may admit Colleges and institutions in Benares to such privileges of the University, subject to such conditions, as it thinks fit

16. The degrees, diplomas, certificates and other academic distinctions granted by the University, shall be recognized by the Government to the same extent and in the same manner as the corresponding degrees, diplomas, certificates and other academic distinctions granted by any other University incorporated by an Act of the Governor General in Council

Recognition of degrees.

17. (1) Subject to the provisions of this Act, the Statutes may provide for any or all of the following matters, namely —

- (a) the constitution, powers and duties of the Court, the Council, the Senate, the Syndicate, and such other bodies, as it may be deemed necessary to constitute from time to time,
- (b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members and all other matters relative to those bodies for which it may be necessary or desirable to provide,
- (c) the appointment, powers and duties of the necessary officers of the University,
- (d) for the instruction of Hindu students in Hindu religion, and
- (e) all other matters relating to the administration of the University

(2) The first Statutes shall be those set out in Schedule I

(3) The Court may, from time to time, make new or additional Statutes, or may amend or repeal the Statutes

(4) The Council shall have power to draft and propose to the Court Statutes to be made by the Court, and it shall be the duty of the Court to consider the same

<sup>1</sup> The 1st October, 1917, see Gazette of India, 1917, Pt I, p 1641

(5) All new Statutes or additions to the Statutes or amendments or repeals to Statutes other than Statutes providing for the instruction of Hindu students in Hindu religion, shall require the previous approval of the Visitor, who may sanction, disallow, or remit for further consideration:

Provided that no Statute making a change in the constitution of the Court, the Council, the Senate or the Syndicate, as provided for in the first Statutes, shall be made without the previous sanction of the Governor General in Council.

Regulations.

**18.** (1) Subject to the provisions of this Act and the Statutes, the Regulations may provide for any or all of the following matters, namely:—

- (a) the payment of fees to the University and their amount;
- (b) the admission of students to the University and their examination;
- (c) the tenure of office and terms and manner of appointment and the duties of the examiners and examining boards;
- (d) the discipline to be enforced in regard to the graduates and under-graduates;
- (e) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining of the same;
- (f) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (g) the removal from membership of the University of graduates and under-graduates; and
- (h) all such other subjects as are required or authorised by the Act or Statutes to be prescribed by means of Regulations.

(2) The first Regulations shall be framed as directed by the Governor General in Council, and shall receive his previous approval.

(3) The Senate, from time to time, may make new or additional Regulations, or amend or repeal Regulations.

(4) The Syndicate shall have power to draft and propose to the Senate Regulations to be made by the Senate, and it shall be the duty of the Senate to consider the same.

(5) All new Regulations or additions to the Regulations, or amendments or repeals to Regulations, shall require the previous approval of the Visitor, who may sanction disallow or remit for further consideration

Provided that no Regulation making a change in the first Regulations as to the admission of students to the University, shall be made without the previous sanction of the Governor General in Council

19. (7) If, at any time, the Governor General in Council is of opinion that special reasons exist which make the removal of any member of the teaching staff desirable in the interest of the University, or that, as a special measure, the appointment of a certain examiner or examiners to report to him is desirable to maintain the standard of University examinations, or that the scale of staff of the University is inadequate or that in any other respect the affairs of the University are not managed in the furtherance of the objects and purposes of the University or in accordance with this Act and the Statutes and Regulations, he may indicate to the Council any matter in regard to which he desires explanation and call upon that body to offer such explanation as it may desire to offer, with any proposals which it may desire to make within such time as he may prescribe

Emergency powers of the Governor General in Council.

(2) If the Council fails to offer any explanation within the time prescribed, or offers an explanation or makes proposals which in the opinion of the Governor General in Council, is or are unsatisfactory, the Governor General in Council may issue such instructions as appear to him to be necessary and desirable in the circumstances of the case and the Court shall give effect to such instructions

20 (1) From the commencement of this Act the Hindu University Society shall be dissolved, and all property, moveable and immoveable and all rights, powers and privileges of the Hindu University Society which, immediately before the commencement of this Act, belonged to, or were vested in, the said Society, shall vest in the University, and shall be applied to the objects and purposes for which the University is incorporated

Dissolution and transfer of property the Hindu University Society

(2) From the commencement of this Act, all debts and liabilities of the said Society shall be transferred and attached to the University and shall thereafter be discharged and satisfied by the University

(3) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the Central Hindu College or the said Society shall, on the commencement of this Act, be construed as if the University were therein named, instead of the said College or Society

## SCHEDULE I.

## FIRST STATUTES OF THE UNIVERSITY.

[See sections 3 and 17 (2).]

## Definitions.

1. (1) In these Statutes—

“The Act” means the Benares Hindu University Act, 1915.

(2) All words and expressions used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.

Membership  
of the Uni-  
versity.

2. (1) The following persons shall be members of the University, namely:—

- (i) The officers of the University.
- (ii) The members of the University authorities.
- (iii) The members of the teaching staff.
- (iv) The Graduates.
- (v) The Under-graduates.

(2) Membership of the University shall continue so long only as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.

Patrons and  
Vice-Patrons.

3. (1) The following persons shall be the Patrons of the University, namely:—

- (i) all heads of local administrations in British India, other than the Lieutenant-Governor of the United Provinces of Agra and Oudh;
- (ii) such Indian Princes and Chiefs as the Lord Rector may, of his own motion, or on the recommendation of the Court, from time to time, appoint.

(2) The Lord Rector may, on his own motion, or on the recommendation of the Court, appoint such persons, as he may think fit, to be Vice-Patrons of the University.

The Chan-  
cellor.

4. (1) The successors to the first Chancellor shall be elected by the Court.

(2) The Chancellor shall hold office for three years.

Powers of the  
Chancellor.

5. (1) The Chancellor shall, by virtue of his office, be the head of the University.

(2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court.

(3) The Chancellor may, on the recommendation of the Senate, appoint Rectors, being persons of eminent position or attainment.

6. (1) The successors to the first Pro-Chancellor shall be elected by the Court from among its own members. The Pro-Chancellor.

(2) The Pro-Chancellor shall hold office for one year.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled up by the Chancellor on the recommendation of the Council. The person so appointed shall hold office till the next annual election.

7. The Pro-Chancellor may, in the absence of the Chancellor or pending a vacancy in the office of Chancellor, exercise the functions of the Chancellor, except the conferring of degrees, and preside at any meetings of the Court. Powers of the Pro-Chancellor.

8. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its own members. Such appointment shall be subject to approval by the Visitor. The Vice-Chancellor.

(2) The Vice-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of Vice-Chancellor shall be filled up by election by the Court, subject to approval by the Visitor. Until the election of a new Vice-Chancellor, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor.

9. (1) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Council, the Senate and the Syndicate. He shall be the principal Executive and Academic Officer of the University, and shall, in the absence of the Chancellor, preside at the convocation and confer degrees. Powers of the Vice-Chancellor.

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes and the Regulations are faithfully observed.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Council, the Senate and the Syndicate, and to perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Regulations.

(4) If any emergency arises which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall report the fact to the authority which, in the ordinary course, would have dealt with the matter.

10. (1) The Pro-Vice-Chancellor shall be elected by the Court. The appointment shall be subject to approval by the Visitor. The Pro-Vice-Chancellor.

(2) He shall hold office for such period and under such conditions as shall, from time to time, be determined by the Court.

(3) Casual vacancies in the office of the Pro-Vice-Chancellor shall be filled up by the Vice-Chancellor with the approval of the Chancellor and the Visitor. The person so appointed shall hold office till the next meeting of the Court.

Powers of the  
Pro-Vice-  
Chancellor.

**11.** The Pro-Vice-Chancellor shall be *ex-officio* Secretary of the Court and the Council. He shall be the executive assistant of the Vice-Chancellor in all matters affecting the discipline of the graduates and under-graduates.

The Regis-  
trar.

**12.** (1) The Registrar shall be a whole-time paid officer of the University, and shall be appointed by the Council. He shall be *ex-officio* Secretary of the Senate and the Syndicate. He shall hold office for a term of five years.

(2) The Registrar may be a member of the Senate, but shall not be a member of the Syndicate.

(3) It shall be the duty of the Registrar—

- (a) to be the custodian of the records, common seal and such other property of the University as the Syndicate shall commit to his charge;
- (b) to act as Secretary to the Senate and the Syndicate, and to attend, as far as possible, all meetings of the Senate, Syndicate, Faculties, and any Committees appointed by the Senate, the Syndicate, or the Faculties, and to keep minutes thereof;
- (c) to conduct the official correspondence of the Senate and the Syndicate;
- (d) to issue all notices convening meetings of the Senate, Syndicate, Faculties, Boards of Studies, Boards of Examiners, and of any Committees appointed by the Senate, the Syndicate, the Faculties or any of the Boards;
- (e) to arrange for, and superintend, the examinations of the University at Benares; and
- (f) to perform such other work as may, from time to time, be prescribed by the Syndicate.

The Treas-  
urer.

**13.** (1) The Treasurer shall be appointed by the Court. He shall hold office for the term of one year.

(2) Casual vacancies in the office of Treasurer shall be filled up by election by the Council. The person so appointed shall hold office for the unexpired period of office of the person in whose place he is elected.

(3) The receipt of the Treasurer for any money payable to the University shall be sufficient discharge for the same.

The Court.

**14.** (1) Subject to the provisions of the Act, and save as hereinafter provided in this Statute, the Court shall consist of the following persons, namely:—

*Class I.—Ex-officio Members.*

The Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

*Class II — Donors and their representatives*

- (a) Every Indian Prince or Chief, contributing a donation of three lakhs of rupees or upwards, or transferring property of the like value, shall be a life member from the date of the receipt of the donation or of the transfer, and after his decease, his successor for the time being holding his position as such Prince or Chief, shall be a life member
- (b) Every person contributing to the University a donation of one lakh of rupees or upwards, or transferring property of the like value, shall be a life member from the date of the receipt of the donation or of the transfer
- (c) Every person contributing to the University a donation of Rs10,000 or upwards, or transferring property of the like value, shall be a member for a period of ten years from the date of the receipt of his donation or of the transfer
- (d) Every person who is a life member in virtue of clause (a) may, from time to time, nominate one member. The member so nominated shall continue in office for such period as the nominator may specify to the Registrar provided that his membership shall determine on the death of the nominator
- (e) Every person who is a life member in virtue of clause (b) may, by notice in writing to the Registrar, nominate one member to hold office for a period of five years
- (f) Every donor who makes a bequest of Rs10 000 or upwards, or of property of the like value may, by or under his will, nominate one person who shall be a member for a period of five years from the receipt of the bequest
- (g) Every Indian Prince or Chief who makes a permanent annual grant of money to the University shall, subject to the provisions of clause (j), have the same rights as to membership of, and representation on, the Court as if he had been a donor of such sum as represents the capital value ascertained at a rate of interest of  $3\frac{1}{2}$  per cent of such annual grant
- (h) Every other grantor to the University of any annual grant of money, the payment of which is secured by mortgage of immoveable property affording sufficient security for such grant within the provisions of the *Explanation* to section 66 of the *Transfer of Property Act, 1882*, and effected by duly executed instrument in a form approved by the Council, shall, subject to the provisions of clause (j), have the same rights as to membership of, and represent-

ation on, the Court as if he had been a donor of a sum calculated in the manner prescribed in clause (g).

- (i) The amounts of donations specified in clauses (a), (b), (c), (f) and in Class III (b) may, for the purpose of qualifying the donors within those provisions, be made up partly of money or of capitalised grants as provided in clauses (g) and (h), or of property, or partly of any two or more of these.
- (j) When an annual grant is not fully paid up or falls in arrears, the grantor shall not be entitled to exercise any of the privileges conferred on him by any of the foregoing clauses of this Statute, unless and until the said arrears are paid up.

*Class III.—Elected Members.*

- (a) Ten persons to be elected by the registered graduates of the University from such date as the Court may fix.
- (b) Thirty persons to be elected by registered donors of ₹500 or upwards:  
Provided that, whenever the number of such donors falls below fifty, there shall be no election until the number of such donors again attains or exceeds fifty.
- (c) Ten persons to be elected by the Senate.
- (d) Fifteen representatives of Hindu religion and Sanskrit learning to be elected by the Court.
- (e) Ten persons to be elected by the Court to represent Jain and Sikh communities.
- (f) Ten persons to be elected by the Court to represent the learned professions.
- (g) Such other persons, not exceeding twenty in number, as may be elected by the Court.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Court:

Provided that, in the case of the first Court, the ten persons specified in group (c) of Class III shall be appointed by the Vice-Chancellor, with the approval of the Governor General in Council.

(3) When any electoral body, entitled to elect a member or members, fails to do so within the time prescribed by the Court, the Court may appoint any qualified person of the class from which such electoral body was entitled to elect.

(4) Save when otherwise expressly provided, members shall hold office for five years:



Provided that, as nearly as may be, one-fifth of the total number of the members of the first Court in each of the groups of Class III shall retire by ballot at the end of each year for the first four years.

(5) All casual vacancies among the appointed or elected members shall be filled, as soon as conveniently may be, by the person or body who appointed or elected the member whose place has become vacant, and the person appointed or elected to a casual vacancy shall be a member for the residue of the term for which the person, in whose place he is appointed or elected, was a member.

15. The Court shall exercise control over the Senate through the Council and not otherwise, and over the Faculties through the Council and Senate and not otherwise, and over the Council by means of Statutes and Resolutions passed at a meeting of the Court and not otherwise. Exercise of control by the Court.

16. (1) As soon as may be after the commencement of the Act, the first Court shall assemble at such place and time, as the Chancellor may direct, in order to make the necessary appointments and elections for the purpose of the Act and Statutes. Meetings of the Court.

(2) An annual meeting of the Court shall be held during the month of October in each year, unless some other month be fixed by Resolution at a previous annual general meeting, on such day and at such hour as shall be appointed by the Council. And at such yearly meeting, a report of the proceedings of the Council and of the University, together with a statement of the receipts and expenditure and the balance-sheet as audited, shall be presented by the Council to such meeting, and any vacancies among the officers of the University or among the members of the Court or Council which ought to be filled up by the Court shall be filled up.

(3) A copy of the statement of receipts and expenditure and of the balance-sheet referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting, and shall be open to the inspection of all members of the Court and Senate at the office of the University during the year following such annual meeting, at such reasonable hours and under such conditions as the Council may determine.

(4) Twenty members of the Court shall form a quorum.

(5) Special general meetings of the Court may be convened by the Council at any time.

17. (1) The Council shall consist of the following persons, namely:— The Council.

(i) The Vice-Chancellor and the Pro-Vice-Chancellor for the time being.

(ii) Not more than thirty elected members, of whom five shall be members of the Senate elected by the Senate, and the remainder members of the Court elected by the Court.

(2) Not less than five of the members to be elected by the Court shall be residents of places outside the United Provinces of Agra and Oudh.

(3) At the first election of members of the Council by the Court, it shall proceed in the first place to elect twenty members. The Court shall, as soon as the result of the election is declared, proceed to determine the province, or provinces or States, from among the residents of which the remaining five members are to be elected, and assign to each province or State the number of member or members to be elected.

(4) At each subsequent election, as nearly as may be, four-fifths of the vacancies shall be first filled up. The remaining one-fifth of the vacancies shall then be filled up to secure representation of provinces and States, on the same lines *mutatis mutandis* as provided in sub-section (3).

(5) The elected members of the Council shall hold office for the term of three years:

Provided that, at the first annual meeting of the Court, and at the second annual meeting of the Court, as nearly as may be, one-third of the first elected members shall retire by ballot.

(6) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(7) Seven members of the Council shall form a quorum.

Powers of the  
Council.

18. (1) The Council shall, subject to the control of the Court, have the management and administration of the whole revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the Act, the Statutes and any Regulations made in pursuance thereof, the Council shall, in addition to all other powers vested in it, have the following powers, namely:—

- (i) To appoint, from time to time, Principals of Colleges and such University Professors, Professors, Assistant Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of the Board of Appointments.
- (ii) In the case of other appointments, to delegate, subject to the general control of the Council, the power of appointment to such authority or authorities as the Council may, from time to time, by Resolution, either generally or specially direct.
- (iii) To manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and, for that purpose, to appoint such agents as it may think fit.

- (iv) To invest any moneye belonging to the University, including any unapphed income in such stocks, funds, ebares, or securities, as it shall, from time to time, think fit, or in the purchase of immoveable property in India, with the like power of varying such investments from time to time
- (v) To transfer or accept transfers of any moveable or immoveable property on behalf of the University
- (vi) To provide the buildings, premises, furniture, and apparatus, and other means needed for carrying on the work of the University
- (vii) To enter into, vary, carry out and cancel contracts on behalf of the University
- (viii) To entertain, adjudicate upon and, if thought fit redress any grievances of the officers of the University, the Professors, the Teaching Staff, the Graduatee, Under graduates and the University servants, who may for any reason, feel aggrieved, otherwise than by an act of the Court  
Provided that nothing in this provision shall be deemed to confer on the Council any power to interfere in any matter of discipline in regard to graduates and under graduates
- (ix) To maintain a register of donors to the University
- (x) To select a Seal for the University, and provide for the custody and use of the Seal

19. (1) The Senate shall, save as hereinafter provided in this The Senate Statute, ordinarily consist of not less than fifty members, of whom not less than three fourths shall be Hindus, and shall include the following persons, namely —

*Class I —Ex officio Members*

- (a) The Chancellor, the Pro Chancellor, the Vice Chancellor and the Pro-Vice Chancellor for the time being
- (b) The University Professors
- (c) The Principals or heads of Colleges

*Class II —Elected Members*

- (a) Five members to be elected by the Court
- (b) Five members to be elected by the registered graduates of the University from such date as the Court may fix
- (c) Five representatives of Hindn religion and Sanskrit learning to be elected by the Senate
- (d) Ten representatives to be elected by the Senate from persons engaged in the teaching work of the University or its Colleges

- (e) Should the Vice-Chancellor declare that there is a deficiency in the number of members required in any Faculty or Faculties, then five or less persons elected by the Senate, eminent in the subject or subjects of that Faculty or those Faculties.

*Class III.—Nominated Members.*

- (a) Five members to be nominated by the Visitor.

(2) The foregoing provisions of this Statute shall, as far as may be, be applicable to the first Senate.

(3) The elected and nominated members of the Senate shall hold office for five years:

Provided that, as nearly as may be, one-fifth of the total number of the members of the first Senate shown in each of the groups of Class II and of those shown in Class III shall retire by ballot at the end of each year for the first four years.

(4) All casual vacancies among elected members may be filled up by the body which elected the member whose place has become vacant.

(5) Fifteen members of the Senate shall form a quorum.

Powers of the  
Senate.

20. (1) The Senate shall be the academic body of the University and, subject to the Act, the Statutes and Regulations of the University, shall have entire charge of the organization of instruction, the courses of study and the examination and discipline of students (save so far as matters of discipline rest with the Pro-Vice-Chancellor and the heads of colleges) and the conferment of ordinary and honorary degrees.

(2) Subject to the Act and the Statutes and any Regulations made in pursuance thereof, the Senate shall, in addition to all other powers vested in it, have the following powers, namely:—

- (i) To report on any matter referred to or delegated to them by the Court or the Council.
- (ii) To discuss, and declare an opinion on, any matter whatsoever relating to the University.
- (iii) To make recommendations to the Council or to the Board of Appointments as to the removal of any Professor or Teacher of the University or of its Colleges, or as to the appointment of additional Professors or Teachers for the University or its Colleges.
- (iv) To formulate and modify or revise schemes for the organization of Faculties, and to assign to such Faculties their respective subjects and also to report to the Council as to the expediency of the abolition, combination, or subdivision of any Faculty.

- (v) To fix, subject to any conditions made by the Founders which are accepted by the Court, the times and mode and conditions of competition for Fellowships, Scholarships, and other Prizes, and to award the same
- (vi) To promote research within the University and to require, from time to time, reports on such research
- (vii) To maintain a register of graduates

21 (1) The Syndicate shall be the executive body of the Senate, and shall consist of the Vice Chancellor, the Pro Vice Chancellor and fifteen persons elected by the Senate, of whom not less than ten shall be University Professors or Principals or Professors of Colleges

(2) The elected members of the Syndicate shall hold office for three years

Provided that, as nearly as may be, one third of the elected members of the first Syndicate shall retire by ballot at the end of each year for the first two years

(3) All casual vacancies among elected members may be filled up by the Senate

(4) Five members of the Syndicate shall be a quorum

22. It shall be the duty of the Syndicate, subject to the revision and control of the Senate,—

- (i) to order examinations in conformity with the Regulations and to fix dates for holding them,
- (ii) to appoint Examiners, and, if necessary, to remove them, and subject to the approval of the Council to fix their fees emoluments and travelling and other allowances, and to appoint Boards of Examiners and Moderators,
- (iii) to appoint, whenever necessary, Inspectors or Boards of Inspectors for inspecting Colleges applying for admission to the privileges of the University,
- (iv) to declare the results of the various University Examinations, and to recommend for degrees, honours, diplomas, licenses, titles and marks of honour,
- (v) to award stipends, scholarships, medals, prizes and other rewards in conformity with the Regulations and the conditions prescribed for their awards,
- (vi) to consider and make such reports, or recommend such action as may be deemed necessary, on proposals or motions brought forward by the members of the Senate and Faculties, for consideration by the Senate,
- (vii) to publish lists of prescribed, or recommended, text books and to publish statements of the prescribed courses of study,

Duties of  
the Syndi-  
cate,

(viii) to prepare such forms and registers as are, from time to time, prescribed by the Regulations; and, generally,

(ix) to perform all such duties and to do all such acts, as may be necessary, for the proper carrying out of the provisions of the Act, and the Statutes and Regulations or the Resolutions of the Senate.

The Faculties.

**23.** (1) The University shall include the Faculties of—(1) Oriental learning, (2) Theology, (3) Arts, (4) Science, Pure and Applied, (5) Law, and, as soon as the Visitor is satisfied that sufficient funds are available for the purpose, of (6) Technology, (7) Commerce, (8) Medicine and Surgery, (9) Agriculture, and other Faculties.

(2) The Senate shall annually assign its members to the different Faculties.

(3) The method of assignment of members to the Faculties, the meetings of the Faculties, and their power of co-opting additional members shall be provided for by Regulations:

Provided that the members assigned to the Faculty of Theology shall all be Hindus.

Powers of Faculties.

**24.** (1) The Faculties shall have such powers, and shall perform such duties, as may be assigned to them by the Statutes and the Regulations, and shall, from time to time, appoint such and so many Boards of Studies, in different branches of knowledge as may be prescribed by the Regulations. They shall also consider and make such recommendations to the Senate on any question pertaining to their respective sphere of work as may appear to them necessary, or on any matter referred to them by the Senate.

(2) Five members, in the case of the Faculty of Arts, and three members, in the case of the other Faculties, shall constitute a quorum.

Convocations.

**25.** Convocations of the University for the conferring of degrees, or for other purposes, shall be held in a manner to be prescribed by Regulations.

Committees.

**26.** The Court, Council, Senate, Syndicate and the Faculties may, from time to time, appoint such and so many standing and special Committees or Boards as may seem to them fit, and may, if they think fit, place on them persons who are not members of the appointing bodies. Such Committees may deal with any subject delegated to them, subject to subsequent confirmation by the appointing body.

Board of Appointments.

**27.** (1) The Board of Appointments shall consist of—

(i) The Vice-Chancellor.

(ii) The Pro-Vice-Chancellor.

(iii) Two members to be elected by the Court.

- (iv) Two members to be elected by the Council
- (v) Two members to be elected by the Senate
- (vi) Two members to be elected by the Syndicate

(2) The elected members shall hold office for the term of two years. One member from each electing body, to be determined by ballot, shall retire at the end of the first year

(3) The Vice Chancellor shall preside at the meetings of this Board or, in his absence, the Pro Vice Chancellor

(4) The meetings of the Board shall be convened by the Vice-Chancellor or Pro Vice Chancellor, or when so directed by the Syndicate, by the Registrar

(5) The Board shall consider and submit recommendations as to all appointments referred to it

28 No act or Resolution of the Court, the Council the Senate, the Syndicate or the Faculties or any other authority shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want of qualification by, or invalidity in, the election or appointment of any *de facto* member of the body, whether present or absent

Acts during vacancies

29 Where, by the Statutes or Regulations, no provision is made for a president or chairman to preside over a meeting of any University authority, Board or Committee, or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting

Elected chairman to preside where no provision made by the Statute

30 Every officer of the University and every member of any University authority, whose term of office or of membership has expired, shall be eligible for re appointment or re election, as the case may be

Re appointment and re-election.

31 Any member of the Court, the Council, the Senate or the Syndicate or any other University authority may resign by letter addressed to the Secretary in the case of the Court and to the Registrar in all other cases

Resignation.

32 A member of the Court or the Senate may be removed from office on conviction by a Court of law of what, in the opinion of the Court or the Senate, as the case may be, is a serious offence involving moral delinquency

Removal.

Provided that a Resolution for the removal of any such member is approved by not less than two thirds of the members present at the meeting of the Court or the Senate, as the case may be, at which such a Resolution is proposed

And provided further that such a Resolution is confirmed by a like majority at a subsequent meeting of the Court or Senate, as the case may be

ACT XXVI OF 1917.<sup>1</sup>

## THE TRANSFER OF PROPERTY (VALIDATING) ACT, 1917.

[APPLIES TO THE UNITED PROVINCES.]

[27th September, 1917.]

An Act to validate certain transfers of property made prior to the 1st of January, 1915.

WHEREAS it is expedient to validate certain transfers of property made prior to the 1st of January, 1915; it is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Transfer of Property (Validating) Act, 1917.

(2) It shall extend, in the first instance, to the United Provinces of Agra and Oudh; provided that the Governor General in Council may, by notification in the Gazette of India, extend it to any other part of British India specified in the notification.

Validation of  
certain trans-  
fers made  
prior to the  
1st of Janu-  
ary 1915.

2. Where a mortgage or gift purports to have been effected by an instrument executed prior to the 1st of January, 1915, and such instrument is required by the <sup>2</sup>Transfer of Property Act, 1882, to be attested, IV of 1882, such mortgage or gift shall not be deemed to be invalid by reason only that any person who purported to attest such instrument as a witness did not see the executant sign it; provided that such person before signing his name on the instrument received from the executant a personal acknowledgment of his signature to the same.

Restoration  
of certain  
claims.

3. Where a claim under any such instrument executed prior to the 1st of January, 1915, has been wholly or in part dismissed, rejected, or withdrawn, after the 30th day of July, 1912, and before the commencement of this Act, in a Court of first instance or of revision or appeal, by reason only of the fact that some person who purported to attest such instrument as a witness, on having received before signing his name thereon a personal acknowledgment from the executant of his signature to the same, did not see the executant sign it, the case may, if the dismissal, rejection or withdrawal has had the effect of invalidating, in whole or in part, the said instrument as between persons claiming thereunder, be restored on review in accordance with the procedure provided by the <sup>3</sup>Code of Civil Procedure, 1908, for review of judgments, on V of 1908. application in writing made within six months from the commencement of this Act; and on such restoration, the provisions of section 2 shall apply to such instrument:

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1916, Pt. V, p. 82; for Report of Select Committee, see *ibid*, 1917, Pt. V., p. 29; and for Proceedings in Council, see *ibid*, 1916, Pt. VI, pp. 321 and 508 and *ibid*, 1917, Pt. VI, pp. 206 and 1111.

<sup>2</sup> Genl. Acts, Vol. VII.

<sup>3</sup> Genl. Acts, Vol. VI.



Provided nevertheless—

- (1) that every Court to whom such an application is made shall have a discretion to refuse the same if it is of opinion that such restoration would prejudice the rights of any transferee for value in good faith under any transfer made subsequent to the said 30th day of July, 1912,
- (2) that, in the event of a decree being passed upon such application in favour of the applicant or his legal representative, interest shall only be allowed under such instrument at the contractual rate up to the date of the original dismissal, rejection or withdrawal of such claim, and for a period of six months therefrom, and at the rate of 6 per cent thereafter until realization, and
- (3) that, in the event of the case being so restored the Court shall be bound by the finding of the former Court, by or before whom the case was dismissed rejected or withdrawn, on any issue of fact which was heard and finally determined by it

ACT No III of 1920<sup>1</sup>

THE UNITED PROVINCES TOWN IMPROVEMENT (APPEALS)  
ACT, 1920

[APPLIES TO THE UNITED PROVINCES ]

[11th February, 1920 ]

An Act to modify certain provisions of the United Provinces  
Town Improvement Act, 1919

WHEREAS it is expedient to modify the provisions of the United Provinces Town Improvement Act, 1919,<sup>2</sup> so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act, it is hereby enacted as follows —

1. This Act may be called the United Provinces Town Improvement Short title. (Appeals) Act, 1920

2 In this Act—

Definitions

- (1) "High Court" means, in Agra, the High Court of Judicature at Allahabad, and in Oudh, the Court of the Judicial Commissioner of Oudh, and

<sup>1</sup> For Statement of Objects and Reasons see Gazette of India 1920, Pt V, p 6 and for Proceedings in Council, see *ibid* 1920, Pt VI, pp 17 and 82

<sup>2</sup> *Infra* Vol III

(2) "Tribunal" has the same meaning as in the United Provinces Town Improvement Act, 1919.<sup>1</sup>

Appeals from  
awards of the  
Tribunal.

3. (1) Notwithstanding anything contained in the United Provinces Town Improvement Act, 1919,<sup>1</sup> and subject to the provisions of sub-section (2), an appeal shall lie to the High Court in any of the following cases, namely:—

U. P. Act  
VIII of 1919.

U. P. Act  
VIII of 1919.

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of section 64 of the said Act;

(b) where the decision is that of the Tribunal, and—

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the High Court grants special leave to appeal:

Provided that the High Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is not less than five thousand rupees.

(2) An appeal under clause (b) of sub-section (1) shall only lie on one or more of the following grounds, namely:—

(i) the decision being contrary to law or to some usage having the force of law;

(ii) the decision having failed to determine some material issue of law or usage having the force of law;

(iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

Procedure in  
such appeals.

4. Subject to the provisions of section 3, the provisions of the Code of Civil Procedure, 1908,<sup>2</sup> with respect to appeals from original decrees of 1908, shall, so far as may be, apply to appeals under this Act.

Execution of  
orders of  
High Court.

5. Every order passed by the High Court on appeal under this Act shall be enforced, on application, by a Court of Small Causes within the local limits of whose jurisdiction the award or order appealed against was made, as if it were a decree of that Court.

Period of  
limitation for  
such appeals.

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908,<sup>2</sup> within the meaning of Article 156 V of 1908. of the First Schedule to the Indian Limitation Act, 1908.<sup>2</sup>

IX of 1908.

<sup>1</sup> *Infra*, Vol. III.

<sup>2</sup> General Acts, Vol. VI.

# THE ALIGARH MUSLIM UNIVERSITY ACT, 1920.

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ACT No. XL of 1920.<sup>1</sup>

## THE ALIGARH MUSLIM UNIVERSITY ACT, 1920.

[14th September, 1920.]

An Act to establish and incorporate a teaching and residential Muslim University at Aligarh.

WHEREAS it is expedient to establish and incorporate a teaching and residential Muslim University at Aligarh, and to dissolve the Societies

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<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1920, Pt. V, p. 147; for Report of the Select Committee, see *ibid*, 1920, Pt. V, p. 236; and for Proceedings in Council, see *ibid*, 1920, Pt. VI, pp. 1057, 1105 and 1178—1190.

registered under the Societies' Registration Act, 1860,<sup>1</sup> which are respectively known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and to transfer to and vest in the said University all properties and rights of the said Societies and of the Muslim University Foundation Committee;

It is hereby enacted as follows:—

Short title  
and com-  
monement.

1. (1) This Act may be called the Aligarh Muslim University Act, 1920.

(2) It shall come into force on such date<sup>2</sup> as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, and in all Statutes made hereunder, unless there is anything repugnant in the subject or context,—

- (a) "Academic Council" means the Academic Council of the University;
- (b) "Court" means the Court of the University;
- (c) "Executive Council" means the Executive Council of the University;
- (d) "Hall" means a unit of residence for students of the University, provided, or maintained by the University;
- (e) "registered graduates" means graduates registered under the provisions of this Act;
- (f) "Statutes," "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;
- (g) "teachers" means Professors, Readers, Lecturers, Demonstrators and such other persons as may be appointed for imparting instruction in the University or a Hall; and
- (h) "University" means the Aligarh Muslim University.

### *The University.*

Incorporation.

3. The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons appointed in this behalf by a notification of the Governor General in Council in the Gazette of India, and the persons specified in the Schedule as the first members of the Court and all persons, who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Aligarh

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> This Act was brought into force on the 1st December, 1920, see Gazette of India, 1920, Pt. I, No. 2213.

Muslim University, and shall have perpetual succession and a Common Seal and shall sue and be sued by that name

4. From the commencement of this Act—

- (i) The Societies known as the Muhammadan Anglo Oriental College, Aligarh, and the Muslim University Association shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the said Societies and all property, moveable and immoveable, and all rights, powers and privileges of the Muslim University Foundation Committee shall be transferred to and vest in the University, and shall be applied to the objects and purposes for which the University is incorporated,
- (ii) all debts, liabilities and obligations of the said Societies and Committee shall be transferred to the University, and shall thereafter be discharged and satisfied by it,
- (iii) all references in any enactment to either of the said Societies or to the said Committee shall be construed as references to the University,
- (iv) any will, deed or other document whether made or executed before or after the commencement of this Act which contains any bequest, gift or trust in favour either of the said Societies or of the said Committee shall, on the commencement of this Act, be construed as if the University was therein named instead of such Society or Committee,
- (v) subject to any orders which the Court may make, the buildings which belonged to the Muhammadan Anglo Oriental College, Aligarh, shall continue to be known and designated by the names and styles by which they were known and designated immediately before the commencement of this Act,
- (vi) subject to the provisions of this Act every person employed immediately before the commencement of this Act in the Muhammadan Anglo Oriental College, Aligarh, shall hold employment in the University by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the Muhammadan Anglo Oriental College, Aligarh, if this Act had not been passed

Dissolution of the Muhammadan Anglo Oriental College, Aligarh and the Muslim University Association, and transfer of all property to the University

5. The University shall have the following powers, namely —

- (1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

Powers of the University

(2) to promote Oriental and Islamic studies and give instruction in Muslim theology and religion and to impart moral and physical training;

(3) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(a) shall have pursued a course of study in the University, or

(b) are teachers in educational institutions,

under conditions laid down in the Statutes and Ordinances, and shall have passed the examinations of the University, under like conditions;

(4) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes;

(5) to grant such diplomas to and to provide such lectures and instruction for persons, not being members of the University, as the University may determine;

(6) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine;

(7) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University, and to appoint persons to such Professorships, Readerships, Lectureships and posts;

(8) to institute and award Fellowships (including Travelling Fellowships), Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Ordinances;

(9) to institute and maintain Halls for the residence of students of the University;

(10) to demand and receive such fees and other charges as may be prescribed by the Ordinances;

(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health; and

(12) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University as a teaching and examining body, to cultivate and promote arts, science and other branches of learning, including professional studies, technology, Islamic learning and Muslim theology, and to promote the interests of its students.

Recognition  
of degrees.

6. The degrees, diplomas and other academic distinctions granted or conferred to or on persons by the University shall be recognised by the Government as are the corresponding degrees, diplomas and other



academic distinctions granted by any other University incorporated under any enactment

7. The University shall invest and keep invested in securities in which trust funds may be invested in accordance with the law for the time being in force relating to trusts in British India a sum of thirty lakhs of rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of Fellowships, Scholarships, Prizes and rewards Reserve funds

Provided that—

(1) any Government securities as defined in the Indian Securities Act, 1920, which may be held by the University shall, for the purposes of this section, be reckoned at their face value, and

(2) the aforesaid sum of thirty lakhs shall be reduced by such sums as, at the commencement of this Act, the Governor General in Council shall, by order in writing, declare to be the total capitalised value, for the purpose of this section—

(a) of all permanent recurring grants of money which have been made either to the Muhammadan Anglo Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee, by any Ruler of a State in India, and

(b) of the total income accruing from immoveable property (not being land or buildings, in the occupation and use of the said College) which by the operation of this Act has been transferred to the University

8 The University shall, subject to the provisions of this Act and the Ordinances, be open to all persons of either sex and of whatever race creed or class University open to all races, creeds and classes

Provided that special provision may be made by the Ordinances exempting women from attending at public lectures and tutorial classes and prescribing for them special courses of study

9 The Court shall have power to make Statutes providing that instruction in the Muslim religion shall be compulsory in the case of Muslim students Religious instruction.

10 Every student of the University shall reside either in a Hall or under such conditions as may be prescribed by the Ordinances Residence of students

11 (1) All recognised teaching in connection with the University courses shall be conducted by and in the name of the University, and shall include lecturing, laboratory work and other teaching conducted in the Teaching of the University

University by the teachers thereof in accordance with any syllabus prescribed by Regulations.

(2) Recognised teaching shall also include tutorial instruction given in the University or, under the control of the University, in Halls: provided that every student not residing in a Hall shall be attached to a Hall for such tutorial instruction and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

(3) The authorities responsible for organising such teaching shall be prescribed by the Statutes.

(4) The courses shall be prescribed by the Ordinances.

Power to  
provide and  
recognise  
Intermediate  
colleges and  
schools.

**12.** (1) The University shall, subject to the Statutes, have power to establish and maintain Intermediate colleges and schools, within such limits in the Aligarh District as may be laid down in the Ordinances, for the purpose of preparing students for admission to the University, and may provide for instruction in the Muslim religion and theology in any such colleges and schools

(2) With the approval of the Academic Council and the sanction of the Governor General in Council on the recommendation of the Visiting Board, and subject to such conditions as may be prescribed by the Statutes and the Ordinances, the University may admit Intermediate colleges and schools in the Aligarh District to such privileges of the University as it thinks fit.

#### *The Lord Rector.*

The Lord  
Rector.

**13.** (1) The Governor General shall be the Lord Rector of the University.

(2) The Lord Rector shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, and equipment, and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Lord Rector shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(3) The Lord Rector may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Court the views of the Lord Rector with such advice as the Lord Rector may be pleased to offer upon the action to be taken thereon.

(4) The Court shall communicate through the Vice Chancellor to the Lord Rector such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry

(5) Where the Court does not, within reasonable time, take action to the satisfaction of the Lord Rector, the Lord Rector may, after considering any explanation furnished or representation made by the Court issue such directions as he may think fit, and the Court shall comply with such directions

### *The Visiting Board*

14 (1) The Visiting Board of the University, if and when the United Provinces of Agra and Oudh become a Governor's Province within the meaning of the Government of India Act shall consist of the Governor thereof the members of the Executive Council the Ministers, one member nominated by the Governor and one member nominated by the Minister in charge of Education The Visiting Board.

Provided that until a Governor's Province is so constituted, the Lieutenant Governor of the said Provinces shall discharge and perform the duties of the Visiting Board

(2) The Visiting Board shall have the right through any of its members to inspect the University and to satisfy itself that the proceedings of the University are in conformity with the Act Statutes and Ordinances The Visiting Board shall in every case give notice to the University of its intention to inspect and the University shall be entitled to be represented at such inspection

(3) The Visiting Board may, by order in writing annul any proceedings not in conformity with the Act, Statutes and Ordinances, provided that, before making any such order, the Board shall call upon the University to show cause why such order should not be made, and if any cause is shown within reasonable time, shall consider the same

### *Rectors*

15 The persons specified in the Statutes shall be the Rectors of the University Rectors

### *Officers of the University*

16 The following shall be officers of the University—

- I The Chancellor
- II The Pro Chancellor,

Officers of  
the Univer-  
sity

III. The Vice-Chancellor,

IV. The Pro-Vice-Chancellor, and

V. Such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor.

17. (1) The successors to the first Chancellor shall be elected by the Court.

(2) The Chancellor shall hold office for three years.

(3) The Chancellor shall, by virtue of his office, be the head of the University.

(4) The Chancellor shall, if present, preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(5) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor

18. (1) The successors to the first Pro-Chancellor shall be elected by the Court.

(2) The Pro-Chancellor shall hold office for three years.

(3) Casual vacancies in the office of the Pro-Chancellor shall be filled by the Chancellor on the recommendation of the Executive Council. The persons so appointed shall hold office till the next annual meeting of the Court.

(4) The Pro-Chancellor shall, in the absence of the Chancellor, exercise the functions of the Chancellor.

The Vice-Chancellor.

19. (1) The successors to the first Vice-Chancellor shall be elected by the Court from among its members. Every such election shall be subject to the approval of the Governor General in Council.

(2) The Vice-Chancellor shall exercise such powers and perform such functions as may be prescribed by the Statutes.

The Pro-Vice-Chancellor.

20. (1) The Pro-Vice-Chancellor shall be appointed by the Court.

(2) He shall hold office for such term and with such powers and subject to such conditions as may be prescribed by the Statutes.

Other officers.

21. The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor and the Pro-Vice-Chancellor shall be prescribed by the Statutes and the Ordinances.

#### *Authorities of the University.*

Authorities of the University.

22. The following shall be the authorities of the University:—

I. The Court,

II. The Executive Council,

III. The Academic Council, and

IV Such other authorities as may be declared by the Statutes to be authorities of the University

23. (1) The Court shall consist of the Chancellor, the Pro Chancellor and the Vice Chancellor for the time being and such other persons as may be specified in the Statutes

Provided that no person other than a Muslim shall be a member thereof

(2) The Court shall be the supreme governing body of the University, and shall exercise all the powers of the University, not otherwise provided for by this Act, the Statutes, the Ordinances and the Regulations. It shall have power to review the acts of the Executive and the Academic Councils (save where such Councils have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances), and direct that necessary action be taken by the Executive or the Academic Council, as the case may be, on any recommendations of the Lord Rector

(3) Subject to the provisions of this Act the Court shall exercise the following powers and perform the following duties namely —

- (a) of making Statutes and of amending or repealing the same,
- (b) of considering Ordinances,
- (c) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates,
- (d) of electing such persons to serve on authorities of the University and of appointing such officers as may be prescribed by this Act or the Statutes and
- (e) of exercising such other powers and performing such other duties as may be conferred or imposed upon it by this Act or the Statutes

24 The Executive Council shall be the executive body of the University. Its constitution and the term of office of its members and its powers and duties shall be prescribed by the Statutes

25 (1) The Academic Council shall be the academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation of, and be responsible for the maintenance of standards of instruction, and for the education, examination, discipline and health of students, and for the conferment of degrees (other than honorary)

(2) The constitution of the Academic Council and the term of office of its members and its powers and duties shall be prescribed by the Statutes

Other  
authorities of  
the Univer-  
sity.

26. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University, shall be prescribed by the Statutes.

*Statutes, Ordinances and Regulations.*

Power to  
make  
Statutes.

27. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

- (a) the conferment of honorary degrees and the appointment of Rectors;
- (b) the institution of Fellowships, Scholarships, Exhibitions, Medals and Prizes;
- (c) the terms of office, and the method and conditions of appointment of the officers of the University;
- (d) the designations and powers of officers of the University;
- (e) the constitution, powers and duties of the authorities of the University;
- (f) the classification and mode of appointment of teachers of the University;
- (g) the institution and maintenance of Halls;
- (h) the constitution of provident and pension funds for the benefit of the officers, teachers and servants of the University;
- (i) the maintenance of a register of registered graduates;
- (j) the instruction of Muslim students in the Muslim religion and theology;
- (k) the establishment of Intermediate colleges and schools; and
- (l) all matters which by this Act are to be or may be prescribed by Statutes.

Statutes.

28. (1) The first Statutes are those set out in the Schedule.

(2) The first Statutes may be amended, repealed or added to by Statutes made by the Court in the following manner:—

- (a) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may approve such draft and pass the Statute, or may reject it or return it to the Executive Council for re-consideration, either in whole or in part, together with any amendments which the Court may suggest.
- (b) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion

upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court.

- (c) No new Statute or amendment or repeal of an existing Statute shall have any validity until it has been submitted through the Visiting Board (which may record its opinion thereon) to the Governor General in Council, and has been approved by the latter, who may sanction, disallow or remit it for further consideration.

Provided that no Statute dealing with the instruction of Muslim students in the Muslim religion and theology shall require to be so submitted or approved.

29 Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely — Power to make Ordinances

- (a) the courses of study to be laid down for all degrees and diplomas of the University,
- (b) the conditions of the award of Fellowships, Scholarships, Exhibitions, Medals and Prizes
- (c) the conditions under which students may be admitted to the degree or diploma courses and to the examinations of the University, and shall be eligible for degrees and diplomas,
- (d) the admission of students to the University,
- (e) the terms of office and terms and manner of appointment and the duties of Examining Bodies Examiners and Moderators and the conduct of examinations
- (f) the conditions of residence of students of the University, and the levying of fees for residence in Halls and of other charges,
- (g) the conditions under which women may be exempted from attendance at lectures and tutorial classes and the prescription for them of special courses of study
- (h) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University,
- (i) the maintenance of discipline among the students of the University,
- (j) the management of any Intermediate colleges or schools maintained by the University and the supervision of any Intermediate colleges and schools admitted to privileges under section 12, and
- (l) all matters which by this Act or the Statutes are to be or may be provided for by Ordinances.

30 (1) The Executive Council or, in academic matters the Academic Council may make Ordinances.

(2) The first Ordinances shall be framed as directed by the Governor General in Council, and shall receive such previous approval as he may direct.

(3) No new Ordinance, or amendment or repeal of an existing Ordinance shall have any validity until it has been submitted through the Court and the Visiting Board (which may record its opinion thereon) to the Governor General in Council, and has obtained the approval of the latter, who may sanction, disallow or remit it for further consideration.

(4) If any question arises between the Executive and the Academic Council as to which has the power to make an Ordinance, either Council may represent the matter to the Visiting Board who shall refer the same to a tribunal consisting of three members, one of whom shall be nominated by the Executive Council, one by the Academic Council, and one shall be a Judge of a High Court nominated by the Lord Rector.

Regulations. 31. (1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;
- (b) providing for all matters which by this Act, the Statutes or the Ordinances, are to be prescribed by Regulations; and
- (c) providing for all other matters solely concerning such authorities or committees appointed by them not provided for by this Act, the Statutes and the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

#### *Admission and Examinations.*

Admission to  
the Univer-  
sity.

32. (1) Admission of students to the University shall be made by an Admission Committee consisting of the Pro-Vice-Chancellor, the Principal of an Intermediate College who shall be selected by the Vice-Chancellor and such other persons as may be appointed by the Academic Council.

(2) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognised in accordance with the provisions of this section as equivalent to the Intermediate Examination, and possess such further qualifications as may be prescribed by the Ordinances.



(3) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances

(4) The University shall not, save with the previous sanction of the Governor General in Council, recognise (for the purpose of admission to a course of study for a degree) as equivalent to its own degrees, any degree conferred by any other University or as equivalent to the Intermediate Examination of an Indian University, any examination conducted by any other authority

(5) Notwithstanding anything contained in this Act or the Ordinances, any student of the Muhammadan Anglo Oriental College, Aligarh, who immediately before the commencement of this Act was studying for any examination of the Allahabad University higher than the Intermediate Examination shall be permitted to complete his course in preparation thereof. The University shall provide for such students instruction in accordance with the prospectus of studies of the Allahabad University and notwithstanding anything contained in the Indian University Act, 1904,<sup>1</sup> any such students may be admitted to the examinations of that University during a period not exceeding four years from the commencement of this Act

33 (1) All arrangements for the conduct of examinations shall be made, and all examiners shall be appointed, by the Academic Council in such manner as may be prescribed by the Ordinances Examinations

(2) At least one examiner who is not a member or a teacher of the University shall be appointed for each subject in a Department of Studies forming part of the course which is required for a University degree

(3) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit to moderate examination questions to prepare the results of the examinations, and to report such results to the Executive Council for publication

#### *Annual Report and Accounts*

34 The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit Annual Report

35 (1) The annual accounts and balance sheet of the University shall be prepared under the direction of the Executive Council, and shall once at least every year and at intervals of not more than fifteen months be audited by auditors appointed by the Visiting Board Annual accounts

(2) The annual accounts when audited shall be published in the Gazette of India and in the local official Gazette, and a copy of the accounts, together with the auditor's report, shall be submitted through the Visiting Board to the Lord Rector.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

### *Supplementary Provisions.*

Conditions of  
service of  
officers and  
teachers.

**36.** (1) Every salaried officer and teacher of the University shall be appointed on a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

(2) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned, be referred to a tribunal of arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visiting Board. The decision of the tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the <sup>1</sup>Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception IX of 1899. of section 2 thereof, shall apply accordingly.

Provident  
and pension  
funds.

**37.** (1) The University shall constitute for the benefit of its officers, teachers and servants such provident and pension funds as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident or pension fund has been so constituted, the Governor General in Council may declare that the provisions of the <sup>2</sup>Provident Funds Act, 1897, shall apply to such fund, as if it were a IX of 1897. Government provident fund.

Filling of  
casual vacan-  
cies.

**38.** (1) Subject to any provision in this Act and in the Statutes, the Executive Council shall appoint persons to fill casual vacancies in the offices of Vice-Chancellor and Pro-Vice-Chancellor. Persons so appointed shall hold office till the next meeting of the Court.

(2) Subject to the provisions of sub-section (3) of section 18, other casual vacancies in any office of any authority shall be filled up by the authority which has power to appoint to the office or authority; provided

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> Genl. Acts, Vol. IV.

that, when the Court is the appointing authority, the casual vacancy shall be filled by the Executive Council, and the person so appointed shall hold office till the next meeting of the Court

39 No act or proceeding of any authority of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members

Proceedings of University authorities not invalidated by vacancies

40 (1) If any difficulty arises with respect to the establishment of the University or any authority of the University or in connection with the first meeting of any authority of the University the Governor General in Council may by order<sup>1</sup> make any appointment or do anything which appears to him necessary or expedient for the proper establishment of the University or any authority thereof or for the first meeting of any authority of the University

Power to remove difficulties

(2) Any such order may modify the provisions of this Act and the Statutes so far as may appear to the Governor General in Council to be necessary or expedient for carrying the order into effect

## THE SCHEDULE

### FIRST STATUTES OF THE UNIVERSITY

(See section 23)

1 (1) The following persons shall be Rectors of the University Rectors, namely —

- (i) all Heads of Local Governments
- (ii) such Rulers of States in India Princes and other persons as the Lord Rector may of his own motion or on the recommendation of the Court appoint

(2) The Chancellor may also on the recommendation of the Academic Council appoint persons of eminent position or attainments to be Rectors

2 The Vice Chancellor shall hold office for three years, and shall be eligible for re election

The Vice Chancellor

3 (1) The Vice Chancellor shall take rank in the University next to the Chancellor and the Pro Chancellor and shall be *ex officio* Chairman of the Executive Council and the Academic Council and in the absence of the Chancellor and the Pro Chancellor shall preside at Convocations of the University held for conferring degrees and at meetings of the Court

Powers of the Vice Chancellor

<sup>1</sup> For such order see Gazette of India 1920 Pt I p 2215

(2) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all powers necessary for that purpose.

(3) He shall have the power of convening meetings of the Court and the Executive Council, and shall perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Ordinances.

(4) If any emergency arises in which in his opinion immediate action should be taken, he shall take such action as he deems necessary and report the fact to the authority which in the ordinary course would have dealt with the matter.

(5) He shall be the sole medium of communication between the University and the following authorities, namely, the Governor General in Council, the Lord Rector and the Visiting Board.

The Pro Vice-Chancellor.

4. (1) The Pro-Vice-Chancellor shall be the principal academic officer of the University, and shall be a whole-time salaried officer thereof.

(2) He shall be an *ex-officio* member of the Executive Council and the Academic Council and, in the absence of the Vice-Chancellor, shall preside at meetings of the Academic Council. He shall also have power to convene meetings of the Academic Council.

(3) He shall hold office for five years and be eligible for re-appointment.

The Treasurer.

5. (1) The Treasurer shall be appointed by the Court on such conditions and for such period as the Court may think fit.

(2) He shall exercise general supervision over the funds of the University and advise in regard to its financial policy.

(3) He shall be an *ex-officio* member of the Executive Council and shall, subject to the control of the Executive Council, manage the property and investments of the University. He shall be responsible for the presentation of the annual estimates and accounts.

(4) Subject to the powers of the Executive Council, he shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

(5) He shall exercise such other powers as may be prescribed by the Ordinances.

The Registrar.

6. (1) The Registrar shall be a whole-time paid officer of the University appointed by the Court.

(2) He shall hold office for five years and shall be eligible for re-appointment.

(3) The Registrar shall—

- (a) be the custodian of the records, the seal and such other property of the University as is committed to his charge,
- (b) keep and maintain the register of registered graduates,
- (c) attend and act as Secretary at meetings of the Executive and Academic Council and, if deemed necessary, of the Departments of Studies and any committees appointed by such bodies, and to keep the minutes thereof,
- (d) under the superintendence of the Academic Council and the examination committees arrange for and superintend the examinations of the University, and
- (e) perform such other duties as may from time to time be prescribed by the Ordinances and Regulations

7. (1) The following officers shall be appointed by the Executive Council on the recommendation of the Academic Council —

The Proctor  
and Librarian

- (i) A Proctor for the maintenance of the discipline of the students of the University,
- (ii) A Librarian for the University Library

(2) The Academic Council may delegate to the Proctor such of its powers as regards discipline as it thinks fit

8 The Court shall, subject to provisions hereinafter contained, consist of the following members —

#### *Class I — Ex officio members*

The Chancellor, the Pro Chancellor and the Vice Chancellor for the time being shall be *Ex officio* members

#### *Class II — Foundation Members*

The persons named in the Annexure to this Schedule shall be Foundation Members

#### *Class III — Life Members*

Every person who has contributed to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee a donation of one lakh of rupees or upwards, or has transferred property of like value to any of the said institutions and all persons who shall hereafter make such a donation or transfer shall be a Life Member

Powers of the  
Academic  
Council.

18. (1) The Academic Council shall—

- (i) arrange and supervise the work of education in the University;
- (ii) recommend to the Executive Council the creation and abolition of posts in the educational and tutorial staff;
- (iii) subject to conditions imposed by any trust, fix the time, mode and terms of competition for Fellowships, Scholarships, Studentships, Medals and Prizes and award the same;
- (iv) conduct the examinations and publish the results thereof in the University Gazette;
- (v) have entire charge of the discipline of the students in the University;
- (vi) publish and revise lists of prescribed and recommended books, if any, and prescribe syllabuses in consultation with the Departments of Studies;
- (vii) appoint a library committee with such powers as may be prescribed in the Ordinances; and
- (viii) publish the University Gazette.

(2) All decisions of the Academic Council as regards matters of discipline of students, syllabuses of studies and the conduct of examinations shall be final, with the exception of those which relate to the Departments of Theology whose proceedings shall be subject to the approval of the Executive Council.

Departments  
of Studies.

19. (1) There shall be Departments of Studies in the following branches of knowledge, namely:—

- (i) English language and literature,
- (ii) History and Political Science,
- (iii) Economics,
- (iv) Philosophy and Psychology,
- (v) Physics,
- (vi) Chemistry,
- (vii) Mathematics and Astronomy,
- (viii) Geography,
- (ix) Sunni Theology,
- (x) Shia Theology,
- (xi) Islamic Studies,
- (xii) Arabic language and literature,
- (xiii) Persian,
- (xiv) Urdu,
- (xv) Law.

(2) As soon as circumstances permit, there shall also be Departments of Studies in the following branches of knowledge, namely —

- (i) Education,
- (ii) Botany,
- (iii) Zoology,
- (iv) Agriculture,
- (v) Medicine,
- (vi) Commerce,
- (vii) Technology, and
- (viii) such other departments as the Court on the recommendation of the Academic Council made through the Executive Council, may institute

(3) Each Department of Studies shall—

- (a) consist of the teachers in the subject with which the Department is concerned provided that the Pro Vice Chancellor shall be an *ex officio* member of each Department,
- (b) have power to co opt specialists not exceeding two in number, except in the case of the Department of Law, which shall co opt four members, two of whom shall be Judges of a High Court,
- (c) elect from among the Professors and Readers of the department its own Chairman who shall hold office for three years, but must resign if at any time he ceases to be a Professor or Reader,
- (d) recommend to the Academic Council courses and syllabuses of studies and text books for its subjects and
- (e) make recommendations to the Academic Council in respect of Fellowships, Scholarships and Studentships Medals and Prizes in the subject with which it is concerned

(4) The Academic Council may assign teachers of cognate subjects to a Department of Study

20 Subject to the general control of the Court, all appointments on Appointment the teaching staff shall be made by the Executive Council from a list of <sup>ment</sup> persons recommended as suitable therefor by a Committee of Appointment consisting of the Pro Vice Chancellor, the Chairman of the Department of Studies concerned and three other persons appointed by the Academic Council Other appointments, unless otherwise provided for, shall be made by the Executive Council

21 The register of registered graduates shall, subject to conditions Register of prescribed by the Ordinances, contain the names of—  
graduates

(1) the graduates of the University, and





- 8 Maulvi Nizam-ud din Hisan, B A , B L , Advocate, Lucknow.
- 9 Haji Muhammad Moosa Khan, Datachi, Aligarh
- 10 Sahibzada Aftab Ahmad Khan, Barrister at Law, India Office, London
- 11 Muhammad Alaui Hisan, Esq , B A , Deputy Collector, Bijnor
- 12 Khwaja Sajjad Husain, Esq , B A , Pimpot, Karnal
- 13 Nawabzada Sayid Ashraf-ud din Ahmad, Khan Bahadur, Bah, Patna
- 14 Sahibzada Sultan Ahmad Khan, M A , LL M , Barrister at Law, Appeals Member, Gwalior State
- 15 The Hon'ble Khwaja Yusuf Shah, Khan Bahadur, C I E , Amritsar
- 16 Nasrullah Khan, Esq , Barrister at Law, Surat
- 17 Sayid Zam-ud din, Khan Bahadur, M A , Officiating Collector, Rampur
- 18 Khan Muhammad Aslam Hayat Khan, Esq , Extra Assistant Commissioner, Punjab
- 19 Munshi Niaz Muhammad Khan, B A , Pleader, Jullundur
- 20 Maulvi Nazir Ahmad, B A , LL B , Jammu
- 21 The Hon'ble Mr Justice Muhammad Rafiq, Barrister at Law, High Court, Allahabad
- 22 Maulvi Muhammad Badrul Hasan, LL B , Retired Sub Judge, Aligarh
- 23 Maulvi Muhammad Habibur Rahman Khan Sharwani, Hyderabad State
- 24 Nawab Fateh Ali Khan Qazibash, Khan Bahadur, C I E , Lahore
- 25 Sayid Ahmed Ali, Esq , M A , Krimthana, Ujjain
- 26 Sayid Muhammad Bazar Rizvi, Rampur State
- 27 Muhammad Abdus Salam Khan, Esq , Rampur State
- 28 Hakim Hafiz Muhammad Ajmal Khan, Delhi
- 29 Qazi Aziz ud din Ahmad, Khan Bahadur, O B E , I S O , Judicial Secretary, Dholpore State
- 30 Shaikh Abdul Qadir, Khan Bahadur, B A , Barrister at Law, Lyallpur
- 31 Shaikh Abdullah, Esq , B A , LL B , Vakil, Aligarh
- 32 The Hon'ble Raja Sir Muhammad Tassaduq Rasul Khan, K C S I , of Jahangirabad, Bra Banki
- 33 The Hon'ble Raja Sir Muhammad Ali Muhammad, Khan Bahadur, K C I E , of Mahmudabad, Lucknow
- 34 Mirza Shujaat Ali Beg Khan Bahadur, Calcutta
- 35 Ghulam Muhammad Munshi, Esq , Barrister at Law, Rajkote
- 36 Shaikh Wahid ud din, Khan Bahadur, Meerut

37. Maulvi Abdulla Jan, Ludhiana.
38. The Hon'ble Mian Muhammad Shafi, Khan Bahadur, C.I.E.,  
Member of the Governor General's Executive Council Simla.
39. Saiyid Tufail Ahmad, Sub-Registrar, Aligarh.
40. Saiyid Nabi-ullah, Esq., Barrister-at-Law, Lucknow.
41. Saiyid Jafar Husain, Khan Bahadur, Lucknow.
42. Nawab Bahadur, Nawab Muhammad Abdus Samad, Khan  
Bahadur, of Talibnagar and Chhitari, Aligarh.
43. Maulvi Sir Rahim Bakhsh, K.C.I.E., President, Council of  
Regency, Bhawalpur State.
44. The Hon'ble Nawab Saiyid Nawab Ali Chaudhri, Khan Baha-  
dur, C.I.E., Calcutta.
45. Muhammad Akbar Nazar Ali Hydari, Esq., B.A., Secretary  
to H. E. H. the Nizam's Government in the Judicial, Police  
and General Departments, Hyderabad State.
46. The Hon'ble Mr. Justice Saiyid Muhammad Abdul Raoof,  
Khan Bahadur, Barrister-at-Law, High Court, Lahore.
47. Razzaq Bakhsh Qadri, Esq., Barrister-at-Law, Aligarh.
48. Shaikh Ghulam Sadik, Khan Bahadur, Amritsar.
49. Yaqub Hasan, Esq., Madras.
50. Maulvi Naseer Husain Khan "Khayal," Calcutta.
51. Malik Badr-ud-din Ghulam Husain, Khan Bahadur, Nagpur.
52. Saiyid Muhammad Sharf-ud-din, Esq., Barrister-at-Law,  
Patna.
53. Saiyid Ali Hasan Khan, Lucknow.
54. The Hon'ble Sir Abdul Karim Abdul Shakur Jamal, Kt.,  
C.I.E., Merchant, Burma.
55. Maulvi Muhammad Habib-ullah K Deputy Collec  
Aligarh.
56. Munshi Sarfaraz Khan, Sub-Regis  
Aligarh.
57. Major Nawabzada Haji Hafiz M  
C.S.I., er-in-Chief, idulla  
Honorary to H. E. the Forces,  
Bombay. y Currim t., C
58. The Hon'bl  
Bombay.
59. Nawab Mul Said Chh  
Bulandsha
60. Amir Mustaf Aligarh
61. The Hon'ble tool  
the Govern
62. Saiyid Hasan
63. Nawab Sarbula  
Khan, Barris'  
State), Allahab

- Ghulam Ahmad Khan Kalami, Esq., Coromandel, Kolar Gold Fields.
- Munshi Muhammad Israr Hasan Khan, Khan Bahadur, C.I.E., Judicial Minister, Bhopal State.
- Honorary Captain Nawab Malik Muhammad Mubarez Khan Tiwana, C.B.E., of Shuhpur.
- Abdul Majid Khwaja, Esq., Barrister-at-Law, Patna.
- Kasim Ali Jirajbhai, Esq., Poona.
- Haji Muhammad Swaleh Khan of Bhikampur, Aligarh.
- Saiyid Ross Masood, Esq., B.A., Director of Public Instruction, Hyderabad State.
- Ibnai Ahmad, Esq., Barrister-at-Law, Allahabad.
- Maulvi Mohammad Ibrahim, Wazir, Khairpur State.
- Maulvi Siraj Ahmad, M.A., Extra Assistant Commissioner, Saugor.
- The Hon'ble Justice Sir Abd-ur-rahim, Kt., M.A., Barrister-at-Law, High Court, Madras.
- Saiyid Wazir Hasan, B.A., LL.B., Officiating Additional Judicial Commissioner, Lucknow.
- Shaukat Ali, Esq., Rampur State.
- Maulvi Muhammad Yakoub, Pleader, Moradabad.
- Ashanul Haq, Esq., Barrister-at-Law, Sialkot.
- The Hon'ble Nawab Justice Sir Saiyid Shamsul Huda, K.C.I.E., High Court, Calcutta.
- Mukhtar Ahmad Ansari, Esq., M.D., M.S., M.R.C.S., Delhi.
- Muhammad Ali Jinnah, Esq., Barrister-at-Law, Bombay.
- Mazhar-ul-Haq, Esq., Barrister-at-Law, Patna.
- Maulvi Muhammad Bashir-ud-din, Khan Bahadur, Etawnh.
- The Hon'ble Saiyid Riza Ali, B.A., LL.B., Allahabad.
- Nazir-ud-din Hasan, Esq., M.A., LL.D., Sessions Judge, Aurangabad, Hyderabad State.
- Munshi Nisar Husain, Deputy Magistrate, Irrigation Department, Aligarh.
- Shaikh Mubammad Wajih, Deputy Collector, Bulandshahr.
- Zahoor Ahmad, Esq., Barrister-at-Law, Allahabad.
- Raja Saiyid Abu Jafar, C.I.E., of Pirpur, Fyzabad.
- Sir Saiyid Ali Imam, K.C.S.I., Hyderabad State.
- The Hon'ble Khan Sir Zulfikar Ali Khan, Kt., C.S.I., of Maler Kotla, Lahore.
- Dr. Said-uz-Zafar Khan, M.B., Ch.B., D.T.M., Professor, King George's Medical College, Lucknow.
- Munshi Muhammad Akram Khan, B.A., Deputy Superintendent of Police, Gorakhpur.
- Maulvi Abdul Ahad, Khan Bahadur, Delhi.

37. Maulvi Abdulla Jan, Ludhiana.
38. The Hon'ble Mian Muhammad Shafi, Khan Bahadur, C.I.E.,  
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41. Saiyid Jafar Husain, Khan Bahadur, Lucknow.
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Khan Bahadur, Barrister-at-Law, High Court, Lahore.
47. Razzaq Bakhsh Qadri, Esq., Barrister-at-Law, Aligarh.
48. Shaikh Ghulam Sadik, Khan Bahadur, Amritsar.
49. Yaqub Hasan, Esq., Madras.
50. Maulvi Naseer Husain Khan "Khayal," Calcutta.
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56. Munshi Sarfaraz Khan, Sub-Registrar, Muzaffarnagar.
57. Major Nawabzada Haji Hafiz Muhammad Obeidulla Khan,  
C.S.I., Commander-in-Chief, Bhopal State Forces, and  
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58. The Hon'ble Sir Fazulbhoy Currimbhoy Ebrahim, Kt., C.B.E.,  
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94. Maulvi Abdul Ahad, Khan Bahadur, Delhi.

95. Hafiz Muhammad Haleem, Khan Bahadur, Cawnpore.
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120. Chaudhri Khushi Muhammad Khan, Revenue Member, Kashmere State.
121. Babu Nizam-ud-din, Amritsar.
122. Said Muhammad Khan, Esq., Khurja, Bulandshahr.
123. Munshi Muhammad Wajid Ali Khan, Khan Sahib, Judicial Secretary, Bhopal State.
124. Mahomed Ali, Esq., Rampur State.

